100th Congress
2d Session

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Report
100-578

VETERANS' BENEFITS AND SERVICES ACT OF 1988

CONFERENCE REPORT

TO ACCOMPANY

H.R. 2616

April 21, 1988.—Ordered to be printed

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Mr. MONTGOMERY, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 2616]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 2616) to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits and Services Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
Sec. 3. Definition of Administrator.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

Sec. 101. Eligibility for outpatient services.
Sec. 102. Eligibility for domiciliary care.
Sec. 103. Definition of nursing home care.
Sec. 104. Expansion of contract-care authority.
Sec. 105. Health care outside the United States for veterans with service-connected disabilities.
Sec. 106. Internment period required for eligibility for dental care for former prisoners of war.
Sec. 107. Readjustment counseling program.

Sec. 108. Beneficiary travel program.

PART B—PILOT PROGRAMS AND REPORTS

Sec. 111. Adult day health-care program.
Sec. 112. Report on use of contract-care authorities.
Sec. 113. Pilot program of mobile health-care clinics.
Sec. 114. Modification of report on care furnished to veterans having chronic mental illness disabilities.
Sec. 115. Pilot program of community-based residential care for homeless chronically mentally ill and other veterans.
Sec. 116. Reports on assistance to homeless veterans.

PART C—MATTERS RELATING TO AIDS

Sec. 121. Confidentiality of medical records.
Sec. 122. Nondiscrimination.
Sec. 123. Information and training concerning AIDS prevention.
Sec. 124. Restriction on testing for infection with the human immunodeficiency virus.

PART D—OTHER MATTERS

Sec. 131. Definition of Veterans' Administration medical facilities to include certain recreational facilities.
Sec. 132. Veterans' Administration assistance with rehabilitation activities.
Sec. 133. Rules and regulations relating to Veterans' Administration health care.
Sec. 134. Per diem rates for care in State homes.
Sec. 135. Medical research.
Sec. 136. Conversion of underused space to domiciliary care beds.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

Sec. 201. Health-care quality assurance activities.
Sec. 202. Hospital cost collections.
Sec. 203. Tort claims.
Sec. 204. Nonprofit research corporations.
Sec. 205. Nursing home revolving fund.
Sec. 206. State home contruction grants.

PART B—PAY AND OTHER PERSONNEL BENEFITS

Sec. 211. Additional pay authorities for nurses to be available for pharmacists and occupational therapists.
Sec. 212. Recruitment and retention bonus pay.
Sec. 213. On-call pay.
Sec. 214. Premium pay for Saturday work.
Sec. 215. Report on effect of certain pay and benefits amendments.
Sec. 216. Health Professionals Educational Assistance Program.
Sec. 217. Pay scales and awards for Department of Medicine and Surgery employees.

PART C—PERSONNEL ADMINISTRATION

Sec. 221. Disciplinary matters as to certain appointees.
Sec. 222. Personnel ceilings for noncareer research personnel.
Sec. 223. Authority to waive licensure and internship requirements for certain health-care personnel.
Sec. 224. Nurse representation on policymaking committees.

PART D—REPORTS

Sec. 231. Study of pay and other personnel management practices.
Sec. 232. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

Sec. 301. Specially adapted housing assistance.
Sec. 302. Automobile assistance allowance.

Sec. 303. Burial benefit for service-connected deaths.
Sec. 304. Effective date.

PART B—COMPENSATION-RELATED PROVISIONS

Sec. 311. Definition of former prisoner of war.
Sec. 312. Presumption of service connection for certain disabilities for former prisoners of war.
Sec. 313. Presumption of service connection for lupus.
Sec. 314. Reinstated entitlement for certain survivors.

PART C—EDUCATION PROVISIONS

Sec. 321. Measurement of laboratory instruction.
Sec. 322. Authority to waive compliance surveys.
Sec. 323. Effective date of awards under the post-Vietnam era veterans' education assistance program.

PART D—INSURANCE PROVISIONS

Sec. 331. Authority for annuity adjustments.
Sec. 332. Exemptions from State taxation.
Sec. 333. Direct administration of veterans' mortgage life insurance.

PART E—MEMORIAL AFFAIRS

Sec. 341. National cemetery grave markers.
Sec. 342. Contributions for certain projects.
Sec. 343. State veterans' cemetery construction grants.
Sec. 344. Grave liners.
Sec. 345. American Battle Monuments Commission foreign currency fluctuations.
Sec. 346. Transfer of the Arizona Veterans Memorial Cemetery to the Veterans' Administration.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

Sec. 401. Integrity of contracting out process at health-care facilities.
Sec. 402. Standardization of medical and pharmaceutical items.
Sec. 403. Requirements for the procurement of health-care items.
Sec. 404. Multiyear procurement of certain medical items.

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

Sec. 411. Sequestration rules applicable to veterans' programs.
Sec. 412. Child-care services at Veterans' Administration facilities.
Sec. 413. Advisory Committee on Native-American Veterans.
Sec. 414. Management of canteen service.
Sec. 415. Technical amendments to chapter 37.

PART C—REAL PROPERTY

Sec. 421. Limitation on transfer of property to other agencies.
Sec. 422. Congressional procedures for approval of medical facility acquisition and construction.
Sec. 423. Use of former hospital in Minot, North Dakota.
Sec. 424. Naming of Veterans' Administration Medical Center in Shreveport, Louisiana.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. DEFINITION OF ADMINISTRATOR.

For purposes of this Act, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

SEC. 101. ELIGIBILITY FOR OUTPATIENT SERVICES.

(a) CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Paragraph (1) of section 612(a) is amended—

(1) in the matter preceding clause (A), by striking out "may furnish" and inserting in lieu thereof "shall furnish on an ambulatory or outpatient basis";

(2) by striking out "and" at the end of clause (A);

(3) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new clause:

"(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).".

(b) OTHER VETERANS.—Section 612(a) is further amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (3) as paragraph (6); and

(3) by inserting after paragraph (1) the following:

"(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

"(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

"(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

"(A) to any veteran who is a former prisoner of war;

"(B) to any veteran of the Mexican border period or of World War I; and

"(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical services

for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.

"(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

"(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds that a longer period is required by reason of the disability being treated.".

(c) PRIORITY FOR OUTPATIENT SERVICES.—Section 612(i) is amended by striking out paragraphs (1) through (6) and inserting in lieu thereof the following:

"(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

"(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

"(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

"(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

"(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of necessary care as determined under section 622(a)(1)(C) of this title.".

(d) HOME HEALTH SERVICES.—(1) Section 617 is amended—

(A) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(B) by inserting after the section heading the following new subsection (a):

"(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

"(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

"(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

"(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.".

(2) Subsection (k) of section 612 is transferred to section 617 (as amended by paragraph (1)), inserted at the end of subsection (a) (as added by paragraph (1)), and redesignated as paragraph (3).

(3) The heading of section 617 is amended to read as follows:

"§ 617. Home health services; invalid lifts and other devices".

(e) CONFORMING AMENDMENTS.—(1) Section 612(f) is amended—

(A) by striking out paragraphs (1), (2), and (3);

(B) by striking out "(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection)" and inserting in lieu thereof "(1) The Administrator may not furnish medical services under subsection (a) of this section (including home health services under section 617 of this title)";

(C) by striking out "subparagraph (B) of this paragraph" and inserting in lieu thereof "paragraph (2) of this subsection";

(D) by redesignating subparagraphs (B) through (G) as paragraphs (2) through (7), respectively;

(E) by striking out "this paragraph" each place it appears in such paragraphs and inserting in lieu thereof "this subsection";

(F) in paragraph (2) (as so redesignated), by striking out "this subsection and who is required under subparagraph (A)" and inserting in lieu thereof "subsection (a) of this section and who is required under paragraph (1)";

(G) in paragraph (3) (as so redesignated), by striking out "furnished under this subsection" and inserting in lieu thereof "furnished under subsection (a) of this section"; and

(H) in paragraph (5) (as so redesignated), by striking out "under this subsection" and inserting in lieu thereof "under section 617 of this title".

(2) Section 612 is further amended—

(A) in the first sentence of subsection (b)(4), by striking out "subsections (a) and (f) of this section" and inserting in lieu thereof "subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection)"; and

(B) by striking out subsection (g).

(3) Section 603(a)(2) is amended—

(A) in clause (B), by striking out "section 612(f)(1)(A)(ii) of this title" and inserting in lieu thereof "section 612(a)(4) of this title, for a purpose described in section 612(a)(5) of this title"; and

(B) in clause (C), by striking out "section 612(g)" and inserting in lieu thereof "section 612(a)(3) (other than a veteran who is a former prisoner of war)".

(f) TECHNICAL AMENDMENTS.—Section 612(b)(1)(B) is amended—

(1) in clause (i), by striking out "at time of" and inserting in lieu thereof "at the time of the veteran's";

(2) in clause (ii), by striking out "one hundred and eighty days" and inserting in lieu thereof "180 days";

(3) in clause (iii), by striking out "ninety days" each place it appears and inserting in lieu thereof "90 days"; and

(4) in clause (iv), by striking out "ninety-day" and inserting in lieu thereof "90-day".

(g) REPEAL OF DATED PROVISIONS; GRANDFATHER PROVISION.—(1) Section 612 is amended—

(A) in subsection (b)(1), by striking out subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively; and

(B) by striking out subsection (e).

(2) Any disability of a veteran of the Spanish-American War, upon application for outpatient medical services under section 612 or 624 of title 38, United States Code, shall be considered for the purposes thereof to be a service-connected disabilty and, for the purposes of section 612(b) of such title, to be compensable in degree.

(h) CLERICAL AMENDMENTS.—(1) The heading of section 612 is amended to read as follows:

"§ 612. Eligibility for outpatient services".

(2) The table of sections at the beginning of chapter 17 is amended—

(A) by striking out the item relating to section 612 and inserting in lieu thereof the following:

"612. Eligibility for outpatient services."; and

(B) by striking out the item relating to section 617 and inserting in lieu thereof the following:

"617. Home health services; invalid lifts and other devices.".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the furnishing of medical services to veterans who apply for such services after June 30, 1988.

SEC. 102. ELIGIBILITY FOR DOMICILIARY CARE.

(a) REVISED ELIGIBILITY.—Subsection (b) of section 610 is amended to read as follows:

"(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the purpose of the furnishing of medical services to the veteran.

"(2) This subsection applies in the case of the following veterans:

"(A) Any veteran whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(B) Any veteran who the Administrator determines has no adequate means of support.".

(b) CONFORMING AMENDMENT.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

(c) SAVINGS PROVISION.—The amendment made by subsection (a) shall not limit or restrict the eligibility for domiciliary care of a veteran who was a patient or a resident in a State home facility or a Veterans' Administration domiciliary facility during the period beginning on January 1, 1987, and ending on April 1, 1988.

SEC. 103. DEFINITION OF NURSING HOME CARE.

(a) CLARIFICATION OF DEFINITION.—Section 101(28) is amended—

(1) by striking out "skilled" in the first sentence; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.".

(b) CONFORMING AMENDMENTS.—Section 620(e)(1) is amended—

(1) by striking out the first sentence; and

(2) by striking out "(as defined in section 101(28) of this title)".

SEC. 104. EXPANSION OF CONTRACT-CARE AUTHORITY.

(a) ADDITIONAL COVERED SERVICES.—Section 603(a) is amended—

(1) in clause (3), by inserting "or nursing home care under section 620 of this title" after "Veterans' Administration facility" the first place it appears; and

(2) by adding at the end the following new paragraph:

"(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.".

(b) STYLISTIC AMENDMENTS.—Section 603(a) is further amended—

(1) in the matter preceding clause (1), by striking out "furnish—" and inserting in lieu thereof "furnish any of the following:";

(2) in each of clauses (1) through (7), by capitalizing the first letter of the first word;

(3) at the end of each of clauses (1) through (5), by striking out the semicolon and inserting in lieu thereof a period; and

(4) at the end of clause (6), by striking out "; or" and inserting in lieu thereof a period.

SEC. 105. HEALTH CARE OUTSIDE THE UNITED STATES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 624(b) is amended to read as follows:

"(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

"(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

"(A) if the veteran is in the Republic of the Philippines or in Canada; or

"(B) if the Administrator determines, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.".

SEC. 106. INTERNMENT PERIOD REQUIRED FOR ELIGIBILITY FOR DENTAL CARE FOR FORMER PRISONERS OF WAR.

Section 612(b)(1)(F) (as redesignated by section 101(g)(1)) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 107. READJUSTMENT COUNSELING PROGRAM.

(a) Repeal of Transition Requirement.—Subsection (g)(1) of section 612A is amended to read as follows:

"(g)(1)(A) The Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

"(B) A closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.".

(b) Change in Report Deadline.—Paragraph (2)(A) of section 612A(g) is amended—

(1) by striking out "April 1, 1987" and inserting in lieu thereof "April 1, 1988"; and

(2) by striking out "(or" and all that follows through "available)".

(c) Requirement for a National Plan.—Section 612A(g) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

"(B) The plan shall include the Administrator's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

"(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

"(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

"(ii) The distance between the center and the general Veterans' Administration facility.

"(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

"(iv) The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

"(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

"(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

"(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

"(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

"(D) For the purposes of this paragraph, the term 'general Veterans' Administration facility' means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

"(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

"(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.".

(d) DEFINITIONS.—Section 612A is further amended by adding at the end the following new subsection:

"(i) For the purposes of this section:

"(1) The term 'center' means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

"(2) The term 'Veterans' Administration general health-care facility' means a health-care facility which is operated by the

Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.".

(e) Conforming Amendments—(1) Subsection (g)(2)(B) of section 612A is amended—

(A) in clause (i), by striking out "a program" and all that follows through "health-care facilities" and inserting in lieu thereof "centers"; and

(B) in clause (ii), by striking out "paragraph (1) of".

(2) Subsection (h) of such section is amended—

(A) in paragraph (3)(B), by striking out " 'Centers' " and inserting in lieu thereof " 'Resource Centers' "; and

(B) in paragraphs (4)(A), (4)(B), and (5), by striking out "Center" and inserting in lieu thereof "Resource Center".

(f) Prohibition of Delegation of Duties.—The Chief Medical Director of the Veterans' Administration may not delegate the function of making recommendations under section 612A(g)(3)(A) of title 38, United States Code, as amended by subsection (c).

SEC. 108. BENEFICIARY TRAVEL PROGRAM.

(a) Program Revisions.—Section 111 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following new subsections (b) and (c):

"(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

"(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

"(B) A veteran with a service-connected disability rated at 30 percent or more.

"(C) A veteran receiving pension under section 521 of this title.

"(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

"(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

"(B) In the case of travel by a person to or from the Veteran's Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

"(c)(1) Except as otherwise provided in this subsection, the Administrator, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

"(2) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

"(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Veterans' Administration facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

"(4) The Administrator may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this paragraph.

"(5) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts

specified in paragraphs (1) and (2) of this subsection as such amounts may have been increased or decreased pursuant to this paragraph before such date.".

(b) VOLUNTEER TRANSPORTATION.—(1) Such section is further amended by adding at the end the following new subsection:

"(h) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.".

(2) Not later than six months after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of subsection (h) of section 111 of title 38, United States Code, as added by paragraph (1).

(c) CONFORMING AMENDMENTS.—Paragraph (4) of subsection (g) of such section (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or adjusting amounts" after "rates" the first place it appears; and

(2) by inserting "and amounts" after "rates" the third place it appears.

(d) STYLISTIC AMENDMENTS.—Subsection (d) of such section (as redesignated by subsection (a)(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "the" and inserting in lieu thereof "The"; and

(B) by striking out "hereof;" and inserting in lieu thereof "of this section.";

(2) in paragraph (2)—

(A) by striking out "actual" and inserting in lieu thereof "Actual"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) in paragraph (3), by striking out "the expense" and inserting in lieu thereof "The expense".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 111 is amended to read as follows:

"§ 111. Payments or allowances for beneficiary travel".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 is amended to read as follows:

"111. Payments or allowances for beneficiary travel.".

(f) TRANSITION PROVISION.—In determining for the purposes of subsection (b)(1) of section 111 of title 38, United States Code, as amended by subsection (a), whether during fiscal year 1988 the Administrator has exercised the authority under that section to make

payments there shall be disregarded any exercise of authority under that section before the date of the enactment of this Act.

(g) Effective Date.—The amendments made by subsection (a) shall take effect with respect to travel performed after June 30, 1988.

Part B—Pilot Programs and Reports

SEC. 111. ADULT DAY HEALTH-CARE PROGRAM.

(a) Three-Year Extension.—Section 620(f)(3) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) Study Requirement.—The Administrator shall conduct a study of—

(1) the medical efficacy and the cost-effectiveness of furnishing adult day health care under section 620(f) of title 38, United States Code, as an alternative to nursing home care; and

(2) the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator and through facilities that are under the direct jurisdiction of the Administrator.

(c) Reports.—(1) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(A) an interim report on the study under subsection (b) not later than February 1, 1988; and

(B) a final report on such study not later than February 1, 1991.

(2) Each such report shall include—

(A) the results of the study under subsection (b) through September 30 of the year preceding the deadline under paragraph (1) for submission of the report; and

(B) any other recommendation that the Administrator considers appropriate for legislative or administrative action with respect to the furnishing of adult day health care under section 620(f) of title 38, United States Code.

(d) Repeal of Existing Study and Report Requirements.—Subsections (b) and (c) of section 103 of Public Law 98–160 (38 U.S.C. 620 note) are repealed.

SEC. 112. REPORT ON USE OF CONTRACT-CARE AUTHORITIES.

(a) Revised Report Requirement.—Section 603 is amended by adding at the end the following new subsection:

"(c) The Administrator shall include in the budget documents which the Administrator submits to Congress for any fiscal year a detailed report on the furnishing of contract care and services during the most recently completed fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.".

(b) Repeal of Previous Requirement.—Section 201(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96–22; 93 Stat. 54) is repealed.

SEC. 113. PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

(a) Program.—(1) In order to evaluate the desirability of using mobile health-care clinics to increase the access to Veterans' Administration health-care services of veterans who reside in isolated rural areas, the Administrator may conduct a pilot program under which eligible veterans residing in areas which are at least 100 miles from the nearest Veterans' Administration health-care facility are furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics. The pilot program shall be conducted for a period of not less than 24 months.

(2) The pilot program authorized by paragraph (1) shall be carried out using at least two mobile health-care clinics in each of the following geographic areas of the United States: the Northeast, the Midwest, the South, and the West.

(b) Funding.—There is authorized to be appropriated $5,000,000 for each of fiscal years 1989 and 1990 in order to carry out this section. No funds may be used for the pilot program unless specifically appropriated for that purpose.

(c) Evaluation.—In carrying out the pilot program, the Administrator shall evaluate the efficacy and cost-effectiveness of furnishing care to eligible veterans through the use of mobile health-care clinics.

(d) Reports.—Not later than 20 months after the first health-care service under the pilot program is furnished, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the implementation, operation, and results of the first 17 months' experience under the pilot program. Not later than 27 months after the beginning of the pilot program, the Administrator shall submit to such committees a final such report. Each such report shall include the following:

(1) Information on the health-care services that were furnished under such pilot program and a detailed specification of the costs of furnishing such services.

(2) Information describing the veterans who were furnished services under the pilot program, including a detailed description with respect to service connection, age, prior access to and use of Veterans' Administration care and services, and the financial need of such veterans.

(3) The preliminary or final results of the Administrator's evaluation.

(4) Any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.

SEC. 114. MODIFICATION OF REPORT ON CARE FURNISHED TO VETERANS HAVING CHRONIC MENTAL ILLNESS DISABILITIES.

(a) Report on Institutional Care Furnished Mentally Ill Veterans.—The report required by section 235 of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3266) shall, to the extent feasible, include (1) information on the number of veterans being treated by the

Veterans' Administration for mental illness disabilities who were furnished hospital, domiciliary, or nursing home care by the Administrator during each of fiscal years 1986, 1987, and 1988, shown by type of care furnished and the duration of such care, and (2) the Administrator's analysis of any change in the numbers of veterans being furnished any type of such care during such fiscal years, with particular emphasis on the effect of the implementation by the Veterans' Administration of a resource allocation methodology.

(b) DEADLINE FOR SUBMISSION OF REPORT.—Notwithstanding the date specified in subsection (c) of such section, the report required by such section shall be submitted not later than December 15, 1988.

SEC. 115. PILOT PROGRAM OF COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS.

(a) AUTHORITY FOR PROGRAM.—(1) The Administrator shall conduct a pilot program to provide care and treatment and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 610(a)(1) of title 38, United States Code.

(2) As part of the pilot program, the Administrator may also provide such care and treatment and rehabilitative services—

(A) to veterans being furnished hospital or nursing home care by the Administrator for a chronic mental illness disability; and

(B) to veterans with service-connected chronic mental illness disabilities.

(b) CRITERIA FOR FACILITIES.—Before furnishing care and treatment and rehabilitative services by contract under subsection (a) to a veteran through a facility described in subsection (a), the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

(c) IN-KIND ASSISTANCE.—The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility described in subsection (a) under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate care and services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

(d) DURATION OF PROGRAM.—The authority for the pilot program authorized by this section expires on September 30, 1989.

(e) Report.—Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience of the Veterans' Administration under the pilot program through September 30, 1988, and the recommendation of the Administrator (together with the reasons for such recommendation) as to whether the pilot program should be continued.

(f) Funding.—(1) There is authorized to be appropriated for the pilot program under this section $6,000,000 for each of fiscal years 1988 and 1989.

(2) Of the amounts appropriated for the pilot program for each such fiscal year, not less than $250,000 shall be expended for management and monitoring of the program to ensure that a high quality of care is provided under the program and to ensure an accurate accounting of funds for the program.

(3) During fiscal year 1989, funds may not be obligated for the pilot program under this section other than funds specifically appropriated for that program.

(g) Repeal of Contract Authority in Title 38.—(1) Section 620C is repealed.

(2) The table of sections at the beginning of chapter 17 is amended by striking out the item relating to that section.

SEC. 116. REPORTS ON ASSISTANCE TO HOMELESS VETERANS.

Not later than December 15 of each of 1988, 1989, and 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities (including outreach activities and delivery of medical benefits and other benefits) of the Veterans' Administration during the preceding fiscal year to assist homeless veterans. The report shall include any suggestions of the Administrator for changes in those activities.

Part C—Matters Relating to AIDS

SEC. 121. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) General Rule.—Subsection (a) of section 4132 is amended—

(1) by inserting "(1)" before "Records";

(2) by inserting "infection with the human immunodeficiency virus," after "alcohol abuse,"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.".

(b) Public Health Exception.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking out "pursuant to section 4134 of this title"; and

(2) in paragraph (2)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relat-

ing to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

"(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.".

(c) Disclosure to Spouse or Sexual Partner.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

"(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

"(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(d) Penalty for Unauthorized Disclosure.—Subsection (g) of such section (as redesignated by paragraph (4)(A)) is amended by striking out "shall be fined" and all that follows and inserting in lieu thereof "shall be fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.".

(e) Cross-Reference Amendments.—(1) Subsection (a) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "subsections (e) and (f)".

(2) Subsection (c) of such section is amended by striking out "subsection (b)(2)(C)" and inserting in lieu thereof "subsection (b)(2)(D)".

SEC. 122. NONDISCRIMINATION.

(a) Admission and Treatment of Persons Infected With the Human Immunodeficiency Virus.—Sections 4133 and 4134 are amended to read as follows:

"§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

"(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

"(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title.

"§ 4134. Regulations

"(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

"(b) The regulations referred to in subsection (a) of this section are—

"(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

"(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

"(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

"(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Administrator prescribe.".

(b) Clerical Amendment.—The items relating to sections 4133 and 4134 in the table of sections at the beginning of chapter 73 of such title are amended to read as follows:

"4133. Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus.

"4134. Regulations.".

SEC. 123. INFORMATION AND TRAINING CONCERNING AIDS PREVENTION.

(a) Information Program.—The Administrator shall establish and carry out an information program relating to the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS"). The information program shall be for employees and consultants of the Veterans' Administration, for other persons providing services in Veterans' Administration facilities to beneficiaries of programs administered by the Veterans' Administration, and for such beneficiaries.

(b) Required Elements of Information Program.—In conducting the program under subsection (a), the Administrator shall—

(1) develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

(2) provide for periodic dissemination of publications (including the Surgeon General's Report on AIDS) and other materials containing such information;

(3) make publications and other suitable materials containing such information readily available in Veterans' Administration health-care facilities and such other Veterans' Administration facilities as the Administrator considers appropriate; and

(4) disseminate information (including the Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus, and information on preventing the transmission of such virus, to Veterans' Administration substance abuse treatment personnel, to each person being furnished treatment by the Veterans' Administration for drug abuse, and to each person receiving care or services from the Veterans' Administration whom the Administrator believes to be at high risk for AIDS.

(c) Training in AIDS Prevention.—The Administrator shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of all health-care personnel and all health-care support personnel involved in the furnishing of care under programs administered by the Veterans' Administration.

SEC. 124. RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.

(a) General Rule.—Except as provided in subsection (b), the Administrator may not during any fiscal year conduct a widespread testing program to determine infection of humans with the human immunodeficiency virus unless funds have been appropriated to the

Veterans' Administration specifically for such a program during that fiscal year.

(b) Voluntary Testing.—(1) The Administrator shall provide for a program under which the Veterans' Administration offers each patient to whom the Veterans' Administration is furnishing health care or services and who is described in paragraph (2) the opportunity to be tested to determine whether such patient is infected with the human immunodeficiency virus.

(2) Patients referred to in paragraph (1) are—

(A) patients who are receiving treatment for intravenous drug abuse,

(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and

(C) patients who are otherwise at high risk for infection with such virus.

(3) Subject to the consent requirement in paragraph (4) and unless medically contraindicated, the test shall be administered to each patient requesting to be tested for infection with such virus.

(4) A test may not be conducted under this subsection without the prior informed and separate written consent of the patient tested. The Administrator shall provide pre- and post-test counseling regarding the acquired immune deficiency syndrome and the test to each patient who is administered the test.

Part D—Other Matters

SEC. 131. DEFINITION OF VETERANS' ADMINISTRATION MEDICAL FACILITIES TO INCLUDE CERTAIN RECREATIONAL FACILITIES.

Section 601(4) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.".

SEC. 132. VETERANS' ADMINISTRATION ASSISTANCE WITH REHABILITATION ACTIVITIES.

(a) In General.—Chapter 3 is amended by inserting after section 215 the following new section:

"§ 216. Assistance to certain rehabilitation activities

"(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

"(1) the activities are available to disabled veterans on a national basis; and

"(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

"(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

"(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name 'Veterans' Administration' by—

"(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

"(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

"(2) The use of such seal or name or any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if—

"(A) the Administrator has approved the advertisement; and

"(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 215 the following new item:

"216. Assistance to certain rehabilitation activities.".

SEC. 133. RULES AND REGULATIONS RELATING TO VETERANS' HEALTH CARE.

The text of section 621 is amended to read as follows:

"Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).".

SEC. 134. PER DIEM RATES FOR CARE IN STATE HOMES.

(a) INCREASES IN RATES.—Section 641 is amended—

(1) in subsection (a), by striking out clauses (1) through (3) and inserting in lieu thereof the following:

"(1) $8.70 for domiciliary care; and

"(2) $20.35 for nursing home care and hospital care,"; and

(2) by adding at the end the following new subsection:

"(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.".

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall take effect as of January 1, 1988.

(2) The amendment made by subsection (a)(2) shall take effect on October 1, 1988.

SEC. 135. MEDICAL RESEARCH.

Section 4101(c)(1) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(including biomedical, mental illness, prosthetic and other rehabilitative, and health-care-services research and stressing research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremities and research into injuries and illnesses particularly related to service)".

SEC. 136. CONVERSION OF UNDERUSED SPACE TO DOMICILIARY-CARE BEDS.

(a) In General.—(1) Subject to subsection (b), the Administrator shall, not later than June 1, 1988, in urban areas in which there are significant numbers of homeless veterans, convert underused space located in facilities under the jurisdiction of the Administrator to 500 domiciliary-care beds to be used for the care of veterans in need of domiciliary care, primarily homeless veterans.

(2) If the Administrator determines that it is impractical to undertake the conversions required in paragraph (1) to the extent required in that paragraph—

(A) because appropriate space for the conversions is not available in sufficient quantity, or

(B) because in areas in which there is sufficient space the numbers of homeless veterans in need of domiciliary care who would likely use the beds are not sufficient to warrant the conversions,

the Administrator shall carry out paragraph (1) only to the extent that the Administrator has not determined that it is impractical to do so.

(b) Prohibition Against Diminution of Certain Other Conversions.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

(c) Funding.—The Administrator shall carry out subsection (a) within the limits of available appropriations.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

Part A—Administration

SEC. 201. HEALTH CARE QUALITY ASSURANCE ACTIVITIES.

(a) Actions To Improve Quality Assurance Activities.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall take actions to improve the operation of health-care quality assurance programs and activities in the Veterans' Administration, including actions to achieve the following purposes:

(1) Upgrading the Office of Quality Assurance within the Department of Medicine and Surgery Central Office and assigning responsibility for risk-management activities (to be carried out with the concurrence of the General Counsel) to it.

(2) Expanding, and assigning higher priority and greater resources to, quality-assurance programs and activities at each

Veterans' Administration health-care facility, including implementation of the review (known as "occurrence screening") of patient records for adverse events which are not the natural consequence of the patient's disease, injury, or treatment and the maximum use of the facility's computerized management information system for such activities.

(3) Upgrading and expanding the office of the Medical Inspector in the Department of Medicine and Surgery Central Office, including increasing the number of employees assigned to such office on a full-time basis, so as to ensure that each medical inspection carried out by that office includes at least one such full-time employee and otherwise ensuring such adequate numbers of, and such skills and training on the part of, the employees assigned to that office as are necessary to ensure the independence, objectivity, and accountability of that office.

(4) Upgrading and expanding the activities of the Veterans' Administration's Office of Inspector General in overseeing, monitoring, and evaluating the operations of the Department of Medicine and Surgery's quality-assurance programs and activities and its Medical Inspector office so as to provide the Chief Medical Director, the Administrator, and the Congress with clear and objective assessments of the effectiveness of those programs and operations, including ensuring such numbers of, and such skills and training on the part of, employees assigned to the Office of the Inspector General as are necessary to carry out such oversight, monitoring, and evaluation effectively.

(b) REPORT.—Not later than 75 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, a report describing the actions taken pursuant to subsection (a), including reports of the Chief Medical Director and the Inspector General of the Veterans' Administration on such actions, and any future actions planned (and a timetable therefor) in connection with such actions. The report shall include—

(1) the Administrator's views on (A) the effectiveness of quality assurance and risk management and medical inspection programs and activities in the Department of Medicine and Surgery and of the oversight, monitoring, and evaluation of those programs and activities before the implementation of the actions described in the preceding sentence, and (B) how those actions will improve the effectiveness of these programs and activities; and

(2) a description of actions that have been or will be taken (and the justification for those actions) by the Administrator, the Inspector General, and the Chief Medical Director, as appropriate, to make other improvements in such programs and activities and the oversight, monitoring, and evaluation therefor.

SEC. 202. HOSPITAL COST COLLECTIONS.

Section 629(b)(2) is amended by adding at the end the following new subparagraph:

"(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the

last day on which the care or services for which recovery is sought are furnished.".

SEC. 203. TORT CLAIMS.

(a) INAPPLICABILITY OF AN EXCEPTION RELATING TO FEDERAL TORT CLAIMS IN MEDICAL MALPRACTICE AND NEGLIGENCE CASES.—(1) Section 4116 is amended by adding at the end the following new subsection:

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.".

(2) The amendment made by paragraph (1) shall apply with respect to claims as to which a final judgment has not been rendered as of the date of the enactment of this Act.

(b) INCREASED AUTHORITY TO ADJUST TORT CLAIMS ADMINISTRATIVELY.—(1) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Administrative settlement of tort claims

"(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

"(b) For purposes of this subsection, the term 'settle', with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.".

(2) The table of sections at the beginning of chapter 3 is amended by inserting after the item relating to section 222 the following:

"223. Administrative settlement of tort claims.".

SEC. 204. NONPROFIT RESEARCH CORPORATIONS.

(a) AUTHORITY OF ADMINISTRATOR.—Chapter 73 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"§ 4161. Authority to establish; status

"(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

"(b) If by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

"§ 4162. Purpose of corporations

"Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.

"§ 4163. Board of directors; executive director

"(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

"(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

"(2) subject to subsection (c) of this section, members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research.

"(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"§ 4164. General powers

"(a) A corporation established under this subchapter may—

"(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and

"(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

"(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

“§ 4165. Applicable State law

“Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

“§ 4166. Accountability and oversight

“(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator.

“(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans’ Administration with respect to which the Inspector General of the Veterans’ Administration has responsibilities under such Act.

“(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

“(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation’s report to the Administrator for that year.

“(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Veterans’ Administration who is involved in the functions of the corporation during any year—

> *“(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and*
>
> *“(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.*

“(d) The Administrator shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

“§ 4167. Report to Congress

“Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

“§ 4168. Expiration of authority

“No corporation may be established under this subchapter after September 30, 1991.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"4161. Authority to establish; status.
"4162. Purpose of corporations.
"4163. Board of directors; executive director.
"4164. General powers.
"4165. Applicable State law.
"4166. Accountability and oversight.
"4167. Report to Congress.
"4168. Expiration of authority.".

SEC. 205. NURSING HOME REVOLVING FUND.

(a) Establishment of Fund.—Chapter 81 is amended by inserting after section 5015 the following new section:

"§ 5016. Nursing home revolving fund

"(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

"(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.

"(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5016. Nursing home revolving fund.".

SEC. 206. STATE HOME CONSTRUCTION GRANTS.

(a) Date of List of Approved Projects.—Section 5035(b)(4) is amended by striking out "July 1" and inserting in lieu thereof "August 15".

(b) Conditional Approval of Applications.—Section 5035(b) is amended—

(1) in paragraph (4), by inserting "(including projects that have been conditionally approved under paragraph (6) of this subsection)" after "projects"; and

(2) by adding at the end the following new paragraphs:

"(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 90 days after the date of the conditional approval, specified by the Administrator.

"(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

"(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.".

PART B—PAY AND OTHER PERSONNEL BENEFITS

SEC. 211. ADDITIONAL PAY AUTHORITIES FOR NURSES TO BE AVAILABLE FOR PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) CATEGORY OF APPOINTMENT.—Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and

(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

(b) AUTHORITY FOR PREMIUM PAY.—The second sentence of section 4107(f) is amended—

(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and

(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 212. RECRUITMENT AND RETENTION BONUS PAY.

(a) AUTHORITY TO PAY BONUS.—Chapter 73 is amended by inserting after section 4119 the following new section:

"§ 4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

"(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health-care facility that is designated by the Administrator as a health-care facility with a significant shortage in registered nurses in any clinical service.

"(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility that is designated by the Administrator as a health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

"(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

"(A) $2,000 per year, in the case of an agreement for two years,

"(B) $3,000 per year, in the case of an agreement for three years, and

"(C) $4,000 per year, in the case of an agreement for four years.

"(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

"(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

"(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

"(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

"(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be

provided under section 4118 of this title) if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an agreement under this section with a registered nurse and such an agreement.

"(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

"(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

"(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

"(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

"(h) The Administrator shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4119 the following:

"4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel.".

(b) CONFORMING AMENDMENT.—Section 4107(d) is amended by striking out "section 4118" and inserting in lieu thereof "sections 4118 and 4120".

SEC. 213. ON-CALL PAY.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) The Administrator may pay an employee to whom this subsection applies pay at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

"(2) This subsection applies to an employee who meets each of the following criteria:

"(A) The employee is employed in a position listed in paragraph (3) of section 4104 of this title or meets the criteria speci-

fied in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

"(B) The employee is employed in a work unit for which on-call premium pay is authorized.

"(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

"(3) An employee who is eligible for on call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.".

SEC. 214. PREMIUM PAY FOR SATURDAY WORK.

(a) EXTENSION OF SUNDAY WORK PREMIUM PAY.—Paragraph (3) of section 4107(e) is amended by striking out "Saturday" and inserting in lieu thereof "Friday".

(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of paragraph (10) of such section is amended to read as follows:

"(A) Notwithstanding any other provision of law and subject to subparagraph (B) of this paragraph, the Administrator may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection if the Administrator determines that it is necessary to do so in order to obtain or retain the services of nurses.".

(2) Such paragraph is further amended—

(A) in subparagraph (B), by striking out "subparagraph (A)(i)" and inserting in lieu thereof "subparagraph (A)"; and

(B) by striking out subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tours of duty performed by nurses which begin on or after the first day of the first pay period beginning on or after the date of the enactment of this Act.

SEC. 215. REPORT ON EFFECT OF CERTAIN PAY AND BENEFITS AMENDMENTS.

Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by sections 211 through 214, relating to pay and benefits for various health care professionals in the Department of Medicine and Surgery. The report—

(1) shall particularly describe the effect of such amendments and other provisions of law on the ability of the Veterans' Administration to meet its requirements for nurses, pharmacists, occupational therapists, and physical therapists; and

(2) shall include such recommendations for further legislative action as the Administrator considers appropriate.

SEC. 216. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM.

(a) REPEAL OF OLD PROGRAM.—Subchapter IV of chapter 73 is repealed.

(b) IMPROVED AND EXPANDED PROGRAM.—Part V is amended by adding at the end the following new chapter:

"CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—GENERAL

"Sec.

"4301. Establishment of program; purpose.
"4302. Eligibility.
"4303. Application and acceptance.
"4304. Terms of agreement.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"4311. Authority for program.
"4312. Eligibility; application; agreement.
"4313. Scholarship.
"4314. Part-time students.
"4315. Status of participants.
"4316. Obligated service.
"4317. Breach of agreement: liability.
"4318. Expiration of program.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"4321. Authority for program.
"4322. Eligibility; application; agreement.
"4323. Obligated service.
"4324. Breach of agreement: liability.
"4325. Allocation and distribution of funding.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"4331. Periodic adjustments in amount of assistance.
"4332. Annual report.
"4333. Regulations.
"4334. Breach of agreement; waiver of liability.
"4335. Service in other agencies.
"4336. Exemption of educational assistance payments from taxation.

"SUBCHAPTER I—GENERAL

"§ 4301. Establishment of program; purpose

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the 'Educational Assistance Program'). The program consists of—

"(1) the scholarship program provided for in subchapter II of this chapter, and

"(2) the tuition reimbursement program provided for in subchapter III of this chapter.

"(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

"§ 4302. Eligibility

"(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

"(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

"(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

"§ 4303. Application and acceptance

"(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

"(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

"(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

"(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

"(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Administrator, including a clear explanation of the damages to which the United States is entitled if the individual breaches the agreement.

"(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational as-

sistance under the program and have not completed the course of education or training undertaken under such program.

"§ 4304. Terms of agreement

"An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

"(1) The Administrator's agreement—

"(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

"(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

"(2) The participant's agreement—

"(A) to accept such educational assistance;

"(B) to maintain enrollment and attendance in the course of training until completed;

"(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

"(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

"(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

"(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

"(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"§ 4311. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter. The program shall be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

"§ 4312. Eligibility; application; agreement

"(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as de-

scribed in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

"(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

"(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

"(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

"(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

"(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

"(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

"(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

"(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

"(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.

"(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

"(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

"(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period

of time (hereinafter in this subchapter referred to as the 'period of obligated service') of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

"(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

"(3) In the case of a participant who is a part-time student—

"(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

"(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

"(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

"§ 4313. Scholarship

"(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

"(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veteran's Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) and 4314(2) of this title.

"(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

"§ 4314. Part-time students

"In the case of a participant who is a part-time student—

"(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a

full-time student in the course of education or training being pursued by the participant;

"(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

"(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

"§ 4315. Status of participants

"Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

"§ 4316. Obligated service

"(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

"(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

"(2) As soon as possible after the participant's service commencement date, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

"(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

"(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

"(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which

such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

"§ 4317. Breach of agreement: liability

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

"(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

"(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

"(2) The participant is dismissed from such educational institution for disciplinary reasons.

"(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

"(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator.

"(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

"(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'F' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4313 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 4318. Expiration of program

"The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"§ 4321. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Administration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

"§ 4322. Eligibility; application; agreement

"(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

"(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

"(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

"(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4304 of this title) contain the following:

"(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

"(2) The participant's agreement—

"(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

"(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

"(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year (adjusted in accordance with section 4331 of this title).

"(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

"§ 4323. Obligated service

"(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of such participant entered into under section 4303 of this title.

"(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

"(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

"(d) In the case of a participant whose tuition was paid pursuant to section 4322(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

"(e) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

"§ 4324. Breach of agreement: liability

"(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

"(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

"(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement.

"(b)(1) If a participant in the Tuition Reimbursement Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'F' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4323 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 4325. Allocation and distribution of funding

"In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for that fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"§ 4331. Periodic adjustments in amount of assistance

"(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

"(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rates of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

"(b) For purposes of this section:

"(1) The term 'maximum monthly stipend amount' means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(2) The term 'maximum tuition reimbursement amount' means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(3) The term 'general Federal pay increase' means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

"§ 4332. Annual report

Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

"(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

"(2) The education institutions providing such training to students in each program.

"(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

"(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

"(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted.

"(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

"§ 4333. Regulations

"The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

"§ 4334. Breach of agreement; waiver of liability

"(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

"(b) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States.

"(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

"§ 4335. Service in other agencies

"(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

"(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

"(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

"(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

"§ 4336. Exemption of educational assistance payments from taxation

"Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.".

(c) Savings Provision.—The provisions of subchapter IV of chapter 73 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall remain in effect with respect to scholarships awarded under that subchapter.

(d) Transition.—Section 4331 of title 38, United States Code, as added by subsection (b), shall not apply with respect to a school year ending during fiscal year 1988.

(e) Clerical Amendments.—(1) The table of sections at the beginning of chapter 73 is amended by striking out the items relating to subchapter IV and sections 4141 through 4146.

(2) The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 75 the following new item:

"76. Health Professionals Educational Assistance Program .... 4301".

SEC. 217. PAY SCALES AND AWARDS FOR DEPARTMENT OF MEDICINE AND SURGERY EMPLOYEES.

(a) Section 4103 Schedule.—Subsection (a) of section 4107 is amended to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.".

(b) Section 4104(1) Positions.—Subsection (b)(1) of section 4107 is amended to read as follows:

"(b)(1) The grades and annual ranges of rate of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade.
"Executive grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.

"NURSE SCHEDULE

"Director grade.
"Assistant Director grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.
"Junior grade.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade.
"Senior grade.
"Intermediate grade.

"Full grade.

"Associate grade.".

(c) AWARDS FOR CAREER APPOINTEES.—Subsection (c)(3) of such section is amended by inserting "and any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title" after "applies".

PART C—PERSONNEL ADMINISTRATION

SEC. 221. DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES.

Section 4106(g) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title.".

SEC. 222. PERSONNEL CEILINGS FOR NONCAREER RESEARCH PERSONNEL.

(a) EXCLUSION FROM PERSONNEL CEILINGS.—Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'temporary research personnel' means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years after fiscal year 1987.

SEC. 223. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

> *"(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;*
>
> *"(B) that the licensure or certification of such an individual be in a State; and*
>
> *"(C) that a psychologist have completed an internship.*

"(2) The waivers authorized in paragraph (1) of this subsection may be granted—

> *"(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve*

in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

"(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.".

SEC. 224. NURSE REPRESENTATION ON POLICYMAKING COMMITTEES.

(a) INCLUSION OF FACILITY CHIEF OF NURSING.—Section 4112 is amended by adding at the end the following new subsection:

"(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.".

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended in the first sentence by striking out "deans committee" and inserting in lieu thereof "dean's committee".

PART D—REPORTS

SEC. 231. STUDY OF PAY AND OTHER PERSONNEL MANAGEMENT PRACTICES.

(a) IN GENERAL.—The Administrator shall conduct a study in order to determine—

(1) the effects of the pay and other personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incident to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen, and

(2) the effects that flexible employment benefits programs would have on the recruitment and retention of such employees.

(b) MATTERS REQUIRED TO BE DETERMINED.—In conducting the study under subsection (a), the Administrator shall make determinations with respect to various factors which may affect the determinations to be made under subsection (a), including determinations of the following:

(1) Whether there is inappropriate pay compression between the rates of pay of long-time employees of the Veterans' Administration and either the rates of pay of their supervisors or the rates of pay of relatively new employees performing the same services as a result of the position classification and pay systems applicable to such long-time and relatively new employees or to their supervisors.

(2) If any such inappropriate pay compression exists and such compression results from such position classification and pay systems, whether it is feasible to revise such system or systems in order to eliminate such pay compression and how much

would be the cost to revise such system or systems for that purpose and to implement the revisions.

(3) Whether the payment of pay differentials (or of increased pay differentials) for evening or night service is needed in order to improve the ability of the Veterans' Administration to recruit and retain personnel to perform services referred to in subsection (a) on evening or night shifts, in what amounts such differentials should be paid, how much would be the cost of the payment of such differentials, and what, if any, effects the payment of such differentials would be expected to have on the ability of the Veterans' Administration to recruit and retain personnel to perform such services on a shift for which a differential is not paid.

(c) CONSIDERATION OF FLEXIBLE EMPLOYEE BENEFITS PROGRAMS.—In conducting the study under subsection (a), the Administrator shall review the personnel management practices of an appropriate sample of employers other than the Federal Government. The Administrator shall consider—

(1) the extent to which such employers provide flexible employment benefits under programs designed to meet the individual needs to their employees,

(2) the advantages of such programs for such employers and employees, and

(3) the feasibility, desirability, and appropriateness of establishing and carrying out any such flexible employment benefits program for employees of the Department of Medicine and Surgery of the Veterans' Administration.

(d) REPORTS.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall contain—

(1) the determinations of the Administrator under subsections (a) and (b); and

(2) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of the study.

SEC. 232. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

(a) REPORT.—Not later than August 1, 1988, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Veterans' Administration's activities, and the success of those activities, designed to promote increased efforts by affiliated institutions (1) in training heath-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) Information, for each academic year from 1980–1981 through 1987-1988, on the number of affiliated institutions, shown by type of institution and type of training, that—

(A) have a program through which students or trainees receive education and training in geriatrics through regular rotation through Veterans' Administration medical centers, nursing homes, domiciliary facilities, or other units providing extended care to veterans; or

(B) have a formal program providing education and training in geriatrics; or

(C) have both such programs.

(2) Information on the number of affiliated institutions (shown by type of institution) that are planning to establish programs as described in paragraph (1), together with a timetable for such actions.

(3) Estimates of the costs, both to the Veterans' Administration and to the affiliated institutions, of the programs described in paragraphs (1) and (2).

(4) Estimates of the number of Veterans' Administration patients receiving care or who will receive care from the students or trainees participating in programs described in paragraphs (1)(A) and (2).

(5) A description of the role of the Veterans' Administration in encouraging the establishment and continuation of the programs described in paragraph (1).

(6) The views of the Administrator on the feasibility and desirability of requiring, as a condition of the Veterans' Administration's entering into or continuing an affiliation agreement with a health-care professional training institution, the establishment with such institution of the appropriate type of arrangements described in clause (C)(i) or (C)(ii) of section 4101(f)(1) of title 38, United States Code.

(c) DEFINITION.—For purposes of this section, the term "affiliated institutions" means medical and other health-professional training schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

SEC. 301. SPECIALLY ADAPTED HOUSING ASSISTANCE.

Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$38,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,500".

SEC. 302. AUTOMOBILE ASSISTANCE ALLOWANCE.

Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,500".

SEC. 303. BURIAL BENEFIT FOR SERVICE-CONNECTED DEATHS.

Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$1,500".

SEC. 304. EFFECTIVE DATE.

The amendments made by sections 301, 302, and 303 shall take effect on April 1, 1988.

PART B—COMPENSATION-RELATED PROVISIONS

SEC. 311. DEFINITION OF FORMER PRISONER OF WAR.

Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

SEC. 312. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES FOR FORMER PRISONERS OF WAR.

Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses:

"(13) peripheral neuropathy except where directly related to infectious causes,

"(14) irritable bowel syndrome, or

"(15) peptic ulcer disease,".

SEC. 313. PRESUMPTION OF SERVICE CONNECTION FOR LUPUS.

Section 301(3) is amended by inserting below "Leukemia" the following: "Lupus erythematosus, systemic".

SEC. 314. REINSTATED ENTITLEMENT FOR CERTAIN SURVIVORS.

Section 156(a)(1) of Public Law 97–377 (96 Stat. 1830, 1920) is amended—

(1) in subparagraph (B), by inserting "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code" after "month"; and

(2) in subparagraph (C), by inserting ", or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code," after "(42 U.S.C. 402(g))".

PART C—EDUCATION PROVISIONS

SEC. 321. MEASUREMENT OF LABORATORY INSTRUCTION.

(a) IN GENERAL.—Section 1788 is amended—

(1) in clause (B) of the first sentence of the matter following clause (7) of subsection (a), by inserting "(or two 50-minute periods)" after "two hours"; and

(2) in subsection (c), by inserting "(or two 50-minute periods)" after "two hours".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act.

SEC. 322. AUTHORITY TO WAIVE COMPLIANCE SURVEYS.

The text of section 1793 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution

and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

"(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.".

SEC. 323. EFFECTIVE DATE OF AWARDS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATION ASSISTANCE PROGRAM.

Section 3013 is amended by inserting "32," after "31,".

PART D—INSURANCE PROVISIONS

SEC. 331. AUTHORITY FOR ANNUITY ADJUSTMENTS.

(a)(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

(b)(1) Subchapter II of chapter 19 is amended by adding at the end the following new section:

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

SEC. 332. EXEMPTIONS FROM STATE TAXATION.

(a) EXEMPTION.—Section 769 is amended by adding at the end the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to premiums paid for periods beginning after June 30, 1988.

SEC. 333. DIRECT ADMINISTRATION OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) REVISION OF PROGRAM.—(1) Section 806 is amended to read as follows:

"§ 806. Veterans' Mortgage Life Insurance

"(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

"(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

"(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall deduct from such compensation or other benefits the premiums charged the veteran under this section.

"(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the 'Veterans Insurance and Indemnities' appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

"(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

"(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisifed when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

"(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for

in this section as the Administrator determines are in the best interest of veterans or the United States.

"(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

"(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

"(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

"(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

"(2) The veteran's seventieth birthday.

"(3) Termination of the veteran's ownership of the property securing the loan.

"(4) Discontinuance of payment of premiums by the veteran.

"(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.".

(2) The item relating to section 806 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"806. Veteran's mortgage life insurance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

(c) SAVINGS PROVISION.—Mortgage protection life insurance granted to any veteran under the former section 806 shall continue in force with the United States as insurer, subject to the terms of subsection (d). Nothing in that subsection shall impair any rights of any veteran or mortgage loan holder under the former section 806 that matured before the effective date specified in subsection (b).

(d) DISCONTINUANCE OF CONTRACT PROGRAM.—(1) Effective as of the effective date specified in subsection (b), the Administrator shall discontinue the policy of insurance purchased in accordance with the former section 806.

(2) All premiums collected or received by the insurer on or after such effective date under a policy purchased under the former section 806 shall be promptly forwarded to the Administrator and shall be credited to the "Veterans Insurance and Indemnities" appropriation account. Any positive balance of the contingency reserve maintained by the insurer under such policy remaining after all charges have been made shall be payable to the Administrator and shall be deposited by the Administrator in such account, except that such balance may, upon the election of the insurer, be paid by the insurer in equal monthly installments over a period of not more than two years beginning on the date, after such effective date, that the Administrator specifies.

(e) FORMER SECTION 806 DEFINED.—For the purpose of subsections (c) and (d), the term "former section 806" means section 806 of title 38, United States Code, as in effect on the day before the effective date specified in subsection (b).

PART E—MEMORIAL AFFAIRS

SEC. 341. NATIONAL CEMETERY GRAVE MARKERS.

(a) IN GENERAL.—Section 1004(c)(2) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

"(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.".

(b) GRAVE MARKERS IN CERTAIN LOCATIONS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the cases of the national cemeteries in Riverside, California; Bourne, Massachusetts; Augusta, Michigan; and Indiantown Gap, Pennsylvania; and the proposed national cemetery approved by the Administrator, as of July 31, 1987, for Northern California.

SEC. 342. CONTRIBUTIONS FOR CERTAIN PROJECTS.

Section 1004(f) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraph:

"(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.".

SEC. 343. STATE VETERANS' CEMETERY CONSTRUCTION GRANTS.

Section 1008(b) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(3) in paragraphs (1) and (2) (as so redesignated), by striking out "per centum" and inserting in lieu thereof "percent"; and

(4) in paragraph (2) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

SEC. 344. GRAVE LINERS.

(a) AUTHORITY TO PROVIDE.—Section 906 is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

"(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.".

(b) Clerical Amendments.—(1) The heading of such section is amended to read as follows:

"§ 906. Headstones, markers, and grave liners".

(2) The item relating to such section in the table of sections at the beginning of chapter 23 is amended to read as follows:

"906. Headstones, markers, and grave liners.".

SEC. 345. AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS.

(a) Establishment of Foreign Currency Fluctuations Account.—The Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121 et seq.), is amended by adding at the end the following new section:

"Sec. 13. (a) There is hereby established in the Treasury an account to be known as the 'Foreign Currency Fluctuations, American Battle Monuments Commission, Account'. The account shall be used to provide funds, in addition to funds appropriated for salaries and expenses of the American Battle Monuments Commission, to pay the costs of such salaries and expenses that exceed the amount appropriated therefor as a result of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The account may not be used for any other purpose. Funds in the account may be transferred to funds appropriated for salaries and expenses of the Commission.

"(b) Funds transferred under subsection (a) shall be merged with and available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of funds the Commission may obligate in any fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, American Battle Monuments Commission, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for salaries and expenses have been made available to the Commission, unobligated balances of

such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, American Battle Monuments Commission, Account, to be merged with and available for the same period and purposes as that account.

"(g) The Commission shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Foreign Currency Fluctuations, American Battle Monuments Commission, Account the sum of $3,000,000.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1988.

SEC. 346. TRANSFER OF THE ARIZONA VETERANS MEMORIAL CEMETERY TO THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Administrator shall enter into an agreement with the State of Arizona that—

(1) provides for the conveyance to the United States, without consideration, of all right, title, and interest in and to the Arizona Veterans Memorial Cemetery in the State of Arizona, consisting of approximately 225 acres; and

(2) commits the State to provide to the Veterans' Administration in a timely manner funding in the amount necessary to supplement Federal funding so that the level of operation and maintenance of the cemetery as of the date the agreement is entered into can be maintained during the three-year period beginning on the date of the conveyance of the cemetery under the agreement.

(b) CEMETERY TO BECOME PART OF THE NATIONAL CEMETERY SYSTEM.—After acceptance by the Administrator, the Arizona Veterans Memorial Cemetery shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey that is conducted at no charge to the United States and is satisfactory to the Administrator of Veterans' Affairs.

(d) TERMS AND CONDITIONS.—The Administrator may require such terms and conditions with respect to the conveyance authorized by this section as the Administrator considers appropriate to protect the interests of the United States.

(e) WAIVER OF LIABILITY FOR REPAYMENT OF VETERANS' ADMINISTRATION GRANT.—The State of Arizona is not required to repay the Veterans' Administration, by reason of the conveyance of the Arizona Veterans Memorial Cemetery under this section, the amount of any grant made to such State with respect to such cemetery under section 1008 of title 38, United States Code.

(f) EXPENDITURES.—(1) During each of the one-year periods occurring during the three-year period beginning on the date on which the conveyance under subsection (a) is made, the Administrator may not obligate appropriated funds for the operation and maintenance of the Arizona Veterans Memorial Cemetery in excess of the greater of—

(A) the amount that the Administrator estimates would have been obligated for payment during the one-year period involved to the State pursuant to section 903(b)(1) of title 38, United States Code, in connection with the burial of deceased veterans had the cemetery not been transferred to the Veterans' Administration; or

(B) the amount obligated for such purpose during fiscal year 1987.

(2)(A) Subject to subparagraph (B), in each of the fiscal years occurring during the three-year period described in paragraph (1), the Administrator shall use amounts available for payments under such section 903(b)(1) for the operation and maintenance of such cemetery.

(B) Expenditures under subparagraph (A) shall not exceed the applicable limitation under paragraph (1).

(3) The Administrator shall use all funding received from the State, as described in subsection (a)(2), for the operation and maintenance of such cemetery.

(g) ACCEPTANCE OF GIFTS.—The Administrator may accept devises, bequests, and gifts made in any manner by any person or entity for the purpose of the operation, maintenance, or improvement of the Arizona Veterans Memorial Cemetery after the Administrator has accepted title thereto pursuant to subsection (a) and shall use the funds or property involved for the intended purpose.

(h) GRAVE MARKERS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator shall provide for the use of flat grave markers for interments at the Arizona Veterans Memorial Cemetery after the conveyance of the cemetery to the United States.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

SEC. 401. INTEGRITY OF CONTRACTING OUT PROCESS AT HEALTH-CARE FACILITIES.

(a) REQUIREMENT FOR TWO BIDDERS.—Section 5010(c)(2) is amended by inserting "responsive bids are received from at least two responsible, financially autonomous bidders and" after "only if".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to the awarding of contracts under solicitations issued after the date of the enactment of this Act.

SEC. 402. STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS.

Not later than October 1, 1989, the Administrator shall develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items procured by the Veterans' Administration. The plan shall provide for the procurement of generic pharmaceutical items when such procurement is more economical than procurement of a name-brand pharmaceutical item unless the Chief Medical Director of the Veterans' Administration (1) determines, after consultation with the Commissioner of the Food and Drug Administration, that an equivalent generic item is not available, or (2) determines that the pro-

curement of a name-brand item is necessary in the interests of effective patient care.

SEC. 403. REQUIREMENTS FOR THE PROCUREMENT OF HEALTH-CARE ITEMS.

(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

"§ 5025. Procurement of health-care items

"(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure health-care items under local contracts.

"(b)(1) A health-care item for use by the Veterans' Administration may be procured under a local contract if—

"(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

"(B)(i) the item is not otherwise available to the Veterans' Administration medical center concerned,

"(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribe, or

"(iii) procurement under a local contract is demonstrably more cost-effective for the item.

"(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such health-care items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

"(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items.

"(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may not be delegated.

"(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

"(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency,

to the procurement of a health-care item for use by the Veterans' Administration.

"(d)(1) Not later than December 1 of each year, the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

"(2) Not later than February 1 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

"(e) For the purposes of this section:

"(1) The term 'health-care item' includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, or 73. Such term does not include perishable items.

"(2) The term 'local contract' means a contract entered into by a Veterans' Administration medical center for procurement of an item for use by that medical center.

"(3) The term 'emergency procurement' means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for a item.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5024 the following new item:

"5025. Procurement of health-care items.".

(b) Effective Dates.—(1) Subsection (b)(1) of section 5025 of title 38, United States Code (as added by subsection (a)), shall take effect one year after the date of the enactment of this Act.

(2) Subsection (b)(3) of such section shall apply to health-care items procured for use by the Veterans' Administration after September 30, 1990.

SEC. 404. MULTIYEAR PROCUREMENT OF CERTAIN MEDICAL ITEMS.

(a) Authority for Multiyear Contracts.—Chapter 1 is amended by adding at the end the following new section:

"§ 114. Multiyear procurement for certain medical items

"(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

"(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

"(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

"(A) reducing costs;

"(B) achieving economies in contract administration or in any other Veterans' Administration activities;

"(C) increasing quality of performance by or service from the contractors; or

"(D) encouraging effective competition.

"(3) During the proposed contract period—

"(A) there will be a continuing or recurring need for the supplies or services being procured;

"(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

"(C) the specifications for the supplies or services are expected to be reasonably stable.

"(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

"(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

"(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

"(b)(1) A multiyear contract authorized by this section shall contain—

"(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

"(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

"(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

"(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay

the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

"(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

"(d) The Administrator shall prescribe regulations for the implementation of this section.

"(e) For the purposes of this section:

"(1) The term 'appropriations' has the meaning given that term in section 1511 of title 31.

"(2) The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

"(3) The term 'multiyear contract' means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

"(4) The term 'nonrecurring, unrecovered costs' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"114. Multiyear procurement for certain medical items.".

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

SEC. 411. SEQUESTRATION RULES APPLICABLE TO VETERANS' PROGRAMS.

(a) RESTORATION OF CERTAIN REVOLVING FUNDS.—(1) Notwithstanding section 601(b) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99–576), section 113(b)(2) of title 38, United States Code, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for any fiscal year after fiscal year 1985.

(2) The Secretary of the Treasury shall take such action as is necessary to implement paragraph (1). Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the action taken by the Secretary pursuant to that paragraph.

(b) EXTENSION OF EXEMPTION FOR CERTAIN SERVICE-CONNECTED REHABILITATION AND EDUCATION BENEFITS.—Section 113(a) is amended by striking out "(but only with respect to fiscal year 1987)" each place it appears in paragraphs (4) and (5).

(c) TECHNICAL AMENDMENTS.—Subsection (d) of such section is amended by striking out "a joint report of the Directors of the Office

of Management and Budget and the Congressional Budget Office" and inserting in lieu thereof "a report of the Director of the Office of Management and Budget".

SEC. 412. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

(a) OPERATION BY VETERANS' CANTEEN SERVICE.—Chapter 75 is amended by adding at the end the following new section:

"§ 4209. Child-care centers

"(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title.

"(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

"(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

"(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

"(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

"(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

"(d) The Administrator shall prescribe regulations to carry out this section.

"(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4209. Child-care centers.".

SEC. 413. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) NATIVE HAWAIIAN REPRESENTATION.—(1) Subsections (b) and (c)(3)(A) of section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99–272; 100 Stat. 388) are amended by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians".

(2) Subsection (g) of such section is amended to read as follows:

"(g) DEFINITIONS.—For the purposes of this section:

"(1) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(2) The term 'Native Hawaiian' has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).".

(b) ONE-YEAR EXTENSION.—(1) Subsection (f)(1) of such section is amended by striking out "and February 1, 1988" and inserting in lieu thereof "February 1, 1988, and February 1, 1989".

(2) Subsection (h) of such section is amended—

(A) by striking out "second" and inserting in lieu thereof "third"; and

(B) by striking out "the Committee" and inserting in lieu thereof "the Administrator".

SEC. 414. MANAGEMENT OF CANTEEN SERVICE.

(a) FINANCIAL MANAGEMENT.—(1) The second sentence of section 4205 is amended by inserting "or other interest-bearing accounts" after "checking accounts".

(2) Section 4206 is amended by striking out the second sentence.

(b) EXEMPTION OF CANTEEN SERVICE FROM PERSONNEL CEILING.—(1) Chapter 75 is amended by adding at the end the following:

"§ 4210. Exemption from personnel ceilings

"Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be ap-

plied to employees of the Veterans' Administration by the President or an official of the executive branch.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4210. Exemption from personnel ceilings.".

SEC. 415. TECHNICAL AMENDMENTS TO CHAPTER 37.

(a) TECHNICAL REORGANIZATION OF SUBCHAPTER I.—(1) Section 1802(a) is amended—

(A) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(B) by striking out the first sentence and inserting in lieu thereof: "The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter.";

(C) by striking out "in the preceding sentence, or in section 1818 of this title," in the second sentence and inserting in lieu thereof "in paragraph (2)";

(D) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)", respectively;

(E) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively; and

(F) by adding at the end the following:

"(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

"(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

"(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

"(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

"(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

"(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

"(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.".

(2) Subsection (g) of section 1802—

(A) is amended by striking out "1801(a)" and inserting in lieu thereof "1801(b)"; and

(B) as amended by subparagraph (A) of this paragraph, is transferred so that it will appear at the end of subsection (a) of such section and is redesignated as paragraph (4) of such subsection (a).

(3)(A) Section 1815—

(i) is amended by striking out the section heading;

(ii) is amended by redesignating subsection (a) as paragraph (2)(A) and redesignating subsection (b) as subparagraph (B); and

(iii) as amended by clauses (i) and (ii) of this subparagraph, is transferred so that it will appear as paragraph (2) of section 1803(a), as amended by subparagraph (B)(ii) of this paragraph.

(B) Section 1803 is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 1803. Basic provisions relating to loan guaranty and insurance."; *and*

(ii) in subsection (a) by striking out paragraph (2).

(4) Section 1807 is repealed.

(b) Technical Reorganization of Subchapters II and III.—(1)(A) Section 1816(a)(4)(A)(i)(I) is amended by striking out "section 1816(a)(2) of this title" and inserting in lieu thereof "paragraph (2) of this subsection".

(B) Section 1816(c)(10) is amended—

(i) in subparagraph (A), by inserting "(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)" after "loan"; and

(ii) in subparagraph (B)(ii), by inserting "(5)(A) or" after "under paragraph".

(C) The heading and subsections (a), (b), and (c) of section 1816, as amended by subparagraphs (A) and (B) of this paragraph, are redesignated as a new section 1832 and transferred to subchapter III of chapter 37 so that they will appear following section 1831.

(D) Subsections (d), (e), and (f) of section 1816 are redesignated as subsections (a), (b), and (c), respectively, and transferred so that they will appear after section 1832, as transferred by subparagraph (C) of this paragraph with the following heading:

"§ 1833. Property management".

(2)(A) Section 1817(a) is amended by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810".

(B) Section 1817, as amended by subparagraph (A) of this paragraph, and section 1817A are redesignated as sections 1813 and 1814, respectively, and transferred so that they will appear after section 1812, as transferred by paragraph (4)(C) of this subsection.

(3) Section 1818 is repealed.

(4)(A) Section 1819 is amended by striking out "under this section" each place it appears in subsections (a)(4)(C), (b)(1), (c)(2), (c)(4), (d)(1), (e), (f), (g) (except where it appears in the second sentence), and (h)(1) and inserting in lieu thereof "for purposes specified in this section".

(B) Section 1819(c) is amended—

(i) in the first sentence of paragraph (3) by inserting before the period the following: "as specified in paragraph (4) of this subsection";

(ii) in the second sentence of paragraph (4), by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810"; and

(iii) in the second sentence of paragraph (4), by striking out "under such section 1810" and inserting in lieu thereof "for purposes specified in such section 1810".

(C) Section 1819, as amended by subparagraphs (A) and (B) of this paragraph, is redesignated as section 1812 and transferred so that it will appear following section 1811.

(5) Section 1832—

(A) is amended by striking out the section heading;

(B) is amended by redesignating subsection (a) as subsection (d)(1) and subsection (b) as paragraph (2); and

(C) as amended by clause (A) and (B) of this paragraph, is transferred so that it will appear at the end of the new section 1833 added by paragraph (4) of this subsection.

(c) CONFORMING AMENDMENTS.—(1) Section 1801(a) is amended by striking out "1819(a)(1)" and inserting in lieu thereof "1812(a)(1)".

(2) Section 1803(c)(3) is amended—

(A) in clause (A), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)"; and

(B) in clause (E), by striking out "1819(a)(1)(G)" and inserting in lieu thereof "1812(a)(1)(G)".

(3) Section 1804 is amended—

(A) in clause (C) of subsection (c)(2), by striking out "1819(a)(5)(A)(i)" and inserting in lieu thereof "1812(a)(5)(A)(i)";

(B) in clause (D) of subsection (c)(2), by striking out "1819(e)(5)" and inserting in lieu thereof "1812(e)(5)"; and

(C) in subsection (f), by striking out "1817A" each place it appears and inserting in lieu thereof "1814".

(4) Section 1810 is amended—

(A) in subsection (a)(9)(B)(ii), by striking out "section 1819(a)(5)" and inserting in lieu thereof "section 1812(a)(5)"; and

(B) in subsection (g)(2), by striking out "section 1819(e)(2)" and inserting in lieu thereof "section 1812(e)(2)".

(5) Section 1811 is amended—

(A) by striking out "1819" each place it appears and inserting in lieu thereof "1812"; and

(B) in subsection (b), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)".

(6) Section 1829(d) is amended by striking out "1817A" and inserting in lieu thereof "1814".

(7) Any reference, in effect on the date of the enactment of this Act, in any law, rule, or regulation to any of the sections, or parts thereof, which are redesignated or transferred by this section shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section.

(d) TECHNICAL AMENDMENTS.—(1) Section 1803(a)(1) is amended—

(A) in clause (A)(ii), by inserting "as specified in subparagraph (B) of this paragraph" before the period; and

(B) in clause (B), by striking out "under section 1810 of this chapter" and inserting in lieu thereof "for purposes specified in section 1810 of this title".

(2) Section 1811 is amended—

(A) in subsections (a), (b), and (g), by striking out "under section 1810 or" and inserting in lieu thereof "for purposes specified in section 1810 or"; and

(B) in subsection (d)(2)(B), by striking out "under section 1810(c)" and inserting in lieu thereof "for purposes specified in section 1810".

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 37 is amended—

(1) by striking out the item relating to section 1803 and inserting in lieu thereof the following:

"1803. Basic provisions relating to loan guaranty and insurance.";

(2) by striking out the item relating to section 1807;

(3) by striking out the items relating to subchapter II and inserting in lieu thereof the following:

"SUBCHAPTER II—LOANS

"1810. Purchase or construction of homes.
"1811. Direct loans to veterans.
"1812. Loans to purchase manufactured homes and lots.
"1813. Release from liability under guaranty.
"1814. Assumptions; release from liability."; and

(4) by striking out the item relating to section 1832 and inserting in lieu thereof the following:

"1832. Procedure on default.
"1833. Property management.".

(f) TECHNICAL NATURE OF AMENDMENTS.—The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section.

PART C—REAL PROPERTY

SEC. 421. LIMITATION ON TRANSFER OF PROPERTY TO OTHER AGENCIES.

(a) GENERAL RULE.—(1) Paragraph (2) of section 5022(a) is amended to read as follows:

"(2)(A) The Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

"(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and administered by the Veterans' Administration and that has an estimated value in excess of $50,000.

"(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.".

(2) Any proposed transfer of real property described in subparagraph (B) of section 5022(a)(2) of title 38, United States Code, as amended by paragraph (1), that is described in a report submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives by the Administrator not later than 30 days after the date of the enactment of this Act shall be deemed for purposes

of subparagraph (A) of that section to have been described in the President's budget for fiscal year 1989.

(b) Special Rule.—(1) Section 234 of Public Law 99-576 is repealed.

(2) The Administrator may not declare as excess to the needs of the Veterans' Administration, or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), from the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code, as in effect on that date.

SEC. 422. CONGRESSIONAL PROCEDURES FOR APPROVAL OF MEDICAL FACILITY ACQUISITION AND CONSTRUCTION.

(a) Procedures.—Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

"(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

"(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

"(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.".

(b) Definitions.—Section 5004(a) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) For the purpose of this subsection:

"(A) The term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

"(B) The term 'major medical facility lease' means a lease for space for use as a medical facility at an average annual rental of more than $500,000.".

(c) Cost Variations.—Subsection (c) of section 5004 is amended to read as follows:

"(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.".

(d) CONFORMING REPEAL.—Such section is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 423. USE OF FORMER HOSPITAL IN MINOT, NORTH DAKOTA.

(a) AGREEMENT WITH SECRETARY OF LABOR.—Upon the satisfaction of the conditions specified in subsection (b), the Administrator shall enter into an agreement with the Secretary of Labor for the use by the Secretary for nominal consideration of the 20.6 acres of land in the city of Minot, North Dakota, on which the Department of the Air Force on July 31, 1987, was operating, under a no-cost use agreement with the Veterans' Administration, the John Moses Air Force Hospital and on which the Veterans' Administration Hospital, Minot, North Dakota, was formerly located.

(b) CONDITIONS.—The conditions referred to in subsection (a) are as follows:

(1) Sufficient funds are appropriated to the Department of Labor by the end of fiscal year 1989 to enable the Department to establish a Job Corps Center in North Dakota.

(2) The Secretary of Labor selects the property referred to in subsection (a) as the site for such a Job Corps Center.

(3) The Secretary agrees to use such property as a Job Corp Center for the duration of the lease agreement with the Administrator.

(c) RENEWALS.—The agreement between the Administrator and the Secretary of Labor under subsection (a) shall be renewed for nominal consideration for successive 10-year periods upon request of the Secretary of Labor.

(d) REVERSAL OF PRIOR ADMINISTRATIVE ACTION.—The action of the Veterans' Administration of September 29, 1987, in declaring the property referred to in subsection (a) to be excess to the needs of the Veterans' Administration is hereby rescinded, and such property is returned to the jurisdiction of the Veterans' Administration.

(e) PROHIBITION ON VETERANS' ADMINISTRATION EXPENDITURES.—Notwithstanding any other provision of law, the Veterans' Administration shall not expend any funds for the repair, improvement, or alteration of the property referred to in subsection (a) in connection with the use of such property by the Secretary of Labor.

SEC. 424. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

The Veterans' Administration Medical Center in Shreveport, Louisiana, shall after the date of the enactment of this Act be known and designated as the "Overton Brooks Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the title of the bill and agree to the same.

G.V. MONTGOMERY,
MARCY KAPTUR,
J. ROY ROWLAND,
JERRY SOLOMON,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

ALAN CRANSTON,
DENNIS DECONCINI,
SPARK M. MATSUNAGA,
FRANK H. MURKOWSKI,
AL SIMPSON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House of Representatives and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 2616), to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendments struck out all of the House bill after the enacting clause and inserted a substitute text, consisting of the provisions of S. 9 as agreed to by the Senate on December 4, 1987, and amended the title.

The House amendments struck out all of the substitute text inserted by the Senate amendments and inserted a new substitute text, consisting of provisions derived from the bills listed below, and amended the title.

The bills referred to above are as follows:

> Title I of S. 477, the proposed "Homeless Veterans' Assistance Act of 1987", as passed by the Senate on March 31, 1987 (hereinafter referred to as "S. 477").
>
> H.R. 1659, a bill to increase the payments for the care of veterans in State homes, as passed by the House on May 27, 1987 (hereinafter referred to as "H.R. 1659").
>
> H.R. 2327, a bill to ensure eligibility of certain individuals for beneficiary travel benefits when traveling to Veterans' Administration medical facilities, as passed by the House on June 30, 1987 (hereinafter referred to as "H.R. 2327").
>
> H.R. 2616, the proposed "Veterans' Administration Health-Care Amendments of 1987", as passed by the House on June 30, 1987 (hereinafter referred to as "H.R. 2616").
>
> H.R. 1811, the proposed "Atomic Veterans Compensation Act of 1987", as passed by the House on July 28, 1987 (hereinafter referred to as "H.R. 1811").
>
> H.R. 2945, the proposed "Veterans' Compensation Amendments of 1987", as passed by the House on July 28, 1987 (hereinafter referred to as "H.R. 2945").
>
> H.R. 2672, the proposed "Veterans' Housing Rehabilitation and Program Improvement Act of 1987", as passed by the House on August 3, 1987 (hereinafter referred to as "H.R. 2672").
>
> H.R. 2957, a bill to provide for improvements in the National Cemetery System, as passed by the House on August 3, 1987 (hereinafter referred to as "H.R. 2957").

S. 1464, the proposed "Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987", the text of which was agreed to by the Senate on October 16, 1987, as an amendment to H.R. 2327 (hereinafter referred to as "S. 1464").

H.R. 3449, a bill to improve health-care programs of the Veterans' Administration, as passed by the House on October 19, 1987 (hereinafter referred to as "H.R. 3449").

S. 9, the proposed "Omnibus Veterans' Benefits and Services Act of 1987", the text of which was agreed to by the Senate on December 4, 1987, as an amendment to H.R. 2616 (hereinafter referred to as "S. 9").

The Senate recedes from its disagreement to the amendments of the House to the amendments of the Senate and agrees to the same with a further amendment, which is a substitute for the House amendment to the text of the bill as amended by the Senate amendment thereto.

The differences between the provisions of the various bills from which the House amendment to the text of the bill was derived, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by the conference agreement, and minor drafting, technical, and clarifying changes.

Except as noted in the cases of sections 101, 108, and 134 of the conference agreement and except for the deletion of section 314 from the House amendment, the description of the conference agreement also describes the House amendment.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

Eligibility for Outpatient Services

House bill: The House bill (sections 101 and 106 of H.R. 2616) would, effective October 1, 1987, amend section 612 (a) and (f) of title 38, relating to eligibility for outpatient care, to require the Administrator to furnish such outpatient care as the Administrator determines is necessary—

(a) for any service-connected disability of a veteran;

(b) for any disability of a veteran with a service-connected disability or disabilities rated at 50 percent or more;

(c) for a disability for which a veteran (i) is receiving compensation by reason of having incurred the disability as a result of VA care or the pursuit of vocational rehabilitation under chapter 31 of title 38, or (ii) would thus be entitled to compensation but for a suspension thereof resulting from a judgment or settlement, but only to the extent that the veteran's continuing eligibility for VA care is provided for in the judgment or settlement;

(d) for any disability of a veteran who is a former prisoner-of-war; and

(e) in preparation for hospital admission, to obviate the need for hospital care, or to complete treatment incident to hospital, nursing home, or domiciliary care in the cases of (i) veterans having service-connected disabilities rated at less than 50 percent, (ii) veterans with eligibility based on their exposure to certain toxic substances in Vietnam or to ionizing radiation from nuclear explosions, (iii) veterans of World War I and earlier periods of war, and (iv) veterans with annual incomes at or below the standard, known as the "Category A" threshold (currently $15,833 for veterans having no dependents, with higher amounts for those having one or more). Under current law, the furnishing of outpatient care to veterans in these categories and all other categories is not required.

Senate bill: No provision.

House amendment: The House amendment (section 101) followed the House bill with respect to requiring the furnishing of outpatient care under the circumstances described in clauses (a), (b), and (c), above, deleted the provision described in clause (d), above, and revised the provision requiring the furnishing of pre-hospital care, care to obviate the need for hospital care, and post-institutional follow-up care, as described in clause (e), above. Under the House amendment, the Administrator would be required to furnish such care where necessary on a pre-hospital-care or post-institutional-care basis or to obviate the need for hospital care, for any disability of a veteran who has a service-connected disability rated at 30 or 40 percent or of a veteran with an income at or below the pension aid-and-attendance income level (currently $9,940 for a veteran having no dependents, with higher amounts for those having one or more dependents). The House amendment would also amend section 612(i) of title 38, relating to priorities in the furnishing of VA outpatient care, to revise the priorities for outpatient care to otherwise eligible veterans to require that such care be furnished in the following order of priority: (1) care that the VA is required to furnish (as described above), (2) (a) care for a veteran who has a service-connected disability rated at less than 30 percent, or (b) a compensation or pension examination for any veteran; (3) care for former prisoners of war and veterans with eligibility based on their exposure to toxic substances in Vietnam or to ionizing radiation from nuclear explosions; (4) Mexican border period and World War I veterans and veterans who are in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound; and (5) veterans with incomes above the pension aid-and-attendance level but not above the Category A threshold. The foregoing provisions would take effect on the date of enactment.

Conference agreement: The conference agreement contains the provisions of the House amendment with a July 1, 1988, effective date.

The conferees note the request made on March 21, 1988, by the Committees on Veterans' Affairs to the Comptroller General to conduct a study to estimate the current and potential demand of Category A veterans for needed VA outpatient care, especially in high demand areas, including the suppressed demand for such care, and to ascertain the number of those veterans who are denied needed care and the reasons for the denials.

The conferees intend that, for veterans to whom the Administrator would be required to furnish certain outpatient care as specified in section 612(a) and (f)(1)(A) as proposed to be amended, the VA's sole obligation with respect to needed outpatient care for such veterans is (1) if the veteran is in immediate need of outpatient care, to furnish appropriate care at the VA facility where the veteran applies or, if the needed services are not available there, to furnish contract outpatient care (to the extent authorized under current law (section 603 of title 38)) or to arrange for the veteran to receive the needed care at the nearest VA outpatient facility, or Department of Defense (DOD) outpatient facility with which the VA has a sharing agreement, at which the needed services are available, or (2) if the veteran does not need immediate outpatient care, to schedule the veteran for the first available appointment at the facility where the veteran applied or, if that is not feasible, refer the veteran to the nearest VA outpatient facility, or DOD outpatient facility with which the VA has a sharing agreement, at which the needed services are available and facilitate the scheduling of an appointment for the veteran there. The VA, of course, would also retain any existing discretionary authority to furnish health care to these veterans in the specified circumstances.

The conferees further note that these provisions would not change current law or practice regarding the beneficiary travel program.

Eligibility for Domiciliary Care

House bill: The House bill (section 102 of H.R. 2616 and section 10 of H.R. 3449) would—

(a) effective October 1, 1987, amend section 610(b) of title 38, relating to eligibility for domiciliary care, to establish a veteran's inability to defray the expenses of needed domiciliary care as the only criterion for eligibility for domiciliary care, and

(b) amend section 622(a)(1) and (g), relating to determinations of inability to defray the expenses of necessary care, to eliminate the existence of a service-connected disability as the equivalent of inability to defray the expenses of necessary domiciliary care and to establish the "Category A" income threshold (described above in the discussion of section 101 of H.R. 2616 (currently $15,833 for a veteran having no dependents, with higher amounts for those having one or more dependents)) as the maximum income limit for those considered unable to defray such expenses for domiciliary-care purposes.

Senate bill: The Senate bill (section 305 of S. 9) would amend section 610(b) to revise the eligibility criteria for domiciliary care to provide eligibility to veterans who are in need of such care for the purpose of receiving treatment or rehabilitation and who either have a service-connected disability or are incapacitated from earning a living and have no adequate means of support.

Conference agreement: The conference agreement (section 102) would, effective on the date of enactment, amend section 610(b) to revise the eligibility criteria so as to provide eligibility to veterans who are in need of domiciliary care for the purpose of receiving medical services and who have incomes at or below the pension aid-and-attendance level (currently $9,940 for a veteran having no dependents, with higher amounts for those having one or more dependents) or have no adequate means of support. The eligibility of a veteran who was a patient or resident in a State home facility or VA domiciliary during the period beginning January 1, 1987, and ending April 1, 1988, would not be limited or restricted by this agreement.

The conferees note that the term "medical services" as used in the modified section is defined in section 601(6) of title 38 to include "rehabilitative services". Further, the conferees support the VA's stated intention to give preference to veterans with service-connected disabilities in the furnishing of domiciliary care.

The conferees do not intend that a veteran be determined to be ineligible merely because his or her income is above the income standard. The conferees note that a veteran may have an income over the pension aid-and-attendance level but also be temporarily incapacitated from earning a living and thereby have no adequate means of support and be eligible for domiciliary care.

Definition of Nursing Home Care

House bill: The House bill (section 103 of H.R. 2616) would amend section 101(28) of title 38, relating to the definition of "nursing home care", to define the term to include services furnished in skilled, intermediate care, and combined facilities and to specify that the term does not include domiciliary or residential care.

Senate bill: No provision.

Conference agreement: The conference agreement (section 103) contains this provision with an amendment to delete the reference to residential care.

Expansion of Contract-Care Authority

House bill: The House bill (section 105 of H.R. 2616) would amend section 603(a) of title 38, relating to the VA's contract-care authority, to authorize the VA to contract for (a) emergency hospital care for veterans who have been placed in community nursing homes at VA expense, and (b) the hospitalization of veterans for observation or examination to determine eligibility for a VA benefit.

Senate bill: The Senate bill (section 302 of S. 9), is substantively identical except that it also authorizes contracting for outpatient, as well as inpatient, observation and examination of a veteran to determine eligibility for a VA benefit.

Conference agreement: The conference agreement (section 104) contains the Senate provision.

Health Care Outside the United States for Veterans with Service-Connected Disabilities

House bill: The House bill (section 109 of H.R. 2616) would amend section 624(b) of title 38, relating to contract hospital and outpatient treatment or care of service-connected disabilities of veterans located outside the United States, to provide the VA with authority to furnish care for service-connected disabilities of United States veterans who are non-United States citizens residing or sojourning in Canada.

Senate bill: The Senate bill (section 304 of S. 9) would amend section 624(b) to authorize the VA to furnish care anywhere outside of the United States (a) for the treatment of the service-connected disability of a United States veteran who is not a United States citizen, or (b) as part of a VA vocational rehabilitation program.

Conference agreement: The conference agreement (section 105) would authorize the VA to furnish care outside of the United States (a) for the service-connected disability of a United States veteran who is in Canada or the Republic of the Philippines, (b) as part of a VA vocational rehabilitation program, and (c) for the service-connected disability of a United States veteran located anywhere outside the United States as determined at the discretion of the Administrator.

Internment Period Required for Eligibility for Dental Care for Former Prisoners of War

House bill: The House bill (section 203 of H.R. 2945) would amend section 612 (b) (1) (F) (redesignated as section 612 (b) (1) (G) by section 101 of the conference agreement, of title 38, relating to the eligibility of former prisoners of war for outpatient dental care, to reduce the eligibility requirement from 6 months of internment to 90 days.

Senate bill: The Senate bill (section 111(c) of S. 9) is substantively identical to the House bill.

Conference agreement: The conference agreement (section 106) contains this provision.

Readjustment Counseling Program

House bill: The House bill (section 107 of H.R. 2616) would amend section 612A, relating to the VA's readjustment counseling program for Vietnam-era veterans, to make discretionary the mandatory transition currently required of the Vietnam-era veteran readjustment counseling program from one conducted primarily through Vet Centers in their community locations to one conducted primarily through VA medical facilities and provide for a 120-day period after Congressional receipt of two reports from the VA which are required by law (sections 612A(g) (2) and (3) during which no transition could take place. The second report is to include a detailed explanation and justification for the VA's plans for the Vet Centers.

Senate bill: The Senate bill (title III of S. 1464) would amend section 612A to (a) eliminate the statutory mandate for the transition; (b) replace the statutory mandate for a transition with a provision permitting the closure or relocation of a Vet Center to a general VA facility only upon case-by-case determinations by the Chief Medical Director after taking into account certain specified criteria (drawn from the VA's existing criteria) relating to ensuring the continued availability and effective provision of readjustment counseling services; (c) require that 60 days advance notification, including the results of consideration of the specified criteria, be submitted to the Veterans' Affairs Committees before any such relocations or closures are made; (d) protect for 2 years the budget and personnel ceiling for any Vet Center relocated to a VA medical facility but allow the CMD to reduce the budget and ceiling after one year on the basis of a determination of a reduction in workload; (e) make the relocation of 10 percent or more of the Vet Centers in existence on July 1, 1987, in any fiscal year an "administrative reorganization" for the purposes of existing reorganization requirements set forth in section 210(b) of title 38, thereby allowing such reorganizations to proceed for a fiscal year only if proposed at the time of the President's budget submission—approximately 8 months in advance for that year—and if appropriate notification is provided; (f) extend entitlement for readjustment counseling to veterans who have served in hostilities after May 7, 1975; (g) extend eligibility for readjustment counseling to active-duty personnel who served during the Vietnam era or in hostilities after May 7, 1975, the end of the Vietnam era, and to World War II and Korean-conflict veterans, with particular emphasis in the furnishing of counseling on the needs of those who served in combat; (h) explicitly authorize the provision of appropriate Department of Veterans' Benefits and health services at Vet Centers; (i) require, 90 days after the date of enactment, that all Vet Center personnel who have served satisfactorily and substantially continuously for 2 years be converted to career positions; and (j) postpone by one year the due date of three reports relating to the transition of the Vet Centers—from April 1, 1987, to April 1, 1988, in the case of a report from the Administrator setting forth the Administrator's views and recommendations on the future of the readjustment counseling program; from July 1, 1987, to July 1, 1988, in the case of a report on the VA's plans for the transition; and from February 1, 1989, to February 1, 1990, on the experience under the first year of the transition—and, from October 1, 1986, to October 1, 1987, the due date of the VA's report on the prevalence and incidence of post-traumatic stress disorder and other post-war psychological problems among Vietnam veterans.

Conference agreement: The conference agreement (section 107) contains provisions derived from the House and Senate provisions which would (a) repeal the mandatory transition requirement; (b) require the Administrator, after considering the recommendations of the CMD, to submit a national plan (at any time but not within 60 days before or after the end of a Session of Congress) which sets forth (1) plans with respect to each Vet Center in existence on February 1, 1988, for not less than the next year as to its relocation to another VA facility, movement to another location, or closure and which includes an evaluation of the ways in which decisions about each center would ensure the continued availability of readjustment counseling to persons eligible for and needing such services in the appropriate service area based on specified criteria drawn generally from certain of the VA's existing criteria as reiterated in the Senate bill, and (2) plans to open any new centers; (c) provide for no action to be taken with respect to any existing center prior to receipt of the national plan and for 120 days thereafter; (d) specify that, after the national plan is submitted, if the VA wishes to change the plan as to one or more centers, the Administrator must submit a revision to the national plan for that center or those centers in accordance with the same type of reporting requirements as apply to the initial plan and explaining the basis for the changes in plan; (e) provide for no action as outlined in any revision to be implemented for 60 days; (f) provide that, after the national plan is submitted, action could be taken as to the centers covered by the plan only in the way described therein or in a revision; (g) provide for no delegation to others of the Chief Medical Director's responsibility relating to making recommendations to the Administrator in connection with the submission of the national plan; and (h) postpone by one year the due date of a report from the Administrator on the effectiveness of the readjustment counseling program in meeting the readjustment needs of Vietnam-era veterans.

The conferees note that the VA has been engaged for four years in an effort to convert to career or career-conditional status those Readjustment Counseling Program field employees who are workng under time-limited appointments. The conferees are concerned about the fact that conversions have proceeded very slowly in certain areas and direct the Administrator to complete the process on a nationwide basis as rapidly as possible.

Beneficiary Travel Program

Both H.R. 2327 and the Senate bill (section 101 of S. 1464) would amend section 111 of title 38, which authorizes the VA to pay travel expenses of certain VA beneficiaries traveling to or from a VA facility or other place for the purpose of VA examination, treatment, or care or in connection with vocational rehabilitation provided pursuant to chapter 31 of title 38 or counseling required by the Administrator in connection with educational benefits provided under chapter 34 or 35. Under section 111, beneficiary travel payments may be made only to persons receiving benefits for or in connection with a service-connected disability, those who are receiving or eligible to receive a pension under section 521, those whose incomes do not exceed the applicable maximum annual rate of VA pension, and those who are unable to defray the expenses of their travel.

Requirement for Payment

House bill: The House bill would require the Administrator to make beneficiary travel payments to any eligible claimant or beneficiary.

Senate bill: The Senate bill would require the Administrator, if any beneficiary travel payments are made in any fiscal year, to provide such payments during that year to specified categories of veterans (described below under the heading as being eligible for beneficiary travel payments).

Conference agreement: The conference agreement (section 108(a) and (e)) contains the Senate provision with an amendment to specify that, for purposes of determining whether the VA makes any beneficiary travel payments in fiscal year 1988, only payments made after the date of enactment would be counted.

The conferees note their intention that, in the implementation of these provisions, care be taken to ensure that beneficiary travel payments would be made only to eligible veterans whose travel is for scheduled care or examination or who are furnished outpatient care or admitted to an inpatient health-care facility.

Eligibility

House bill: The House bill would provide that the following persons are entitled to beneficiary travel payments when traveling for a purpose specified in the VA's health-care beneficiary travel regulations in effect on July 1, 1986: (a) a veteran traveling in connection with treatment for a service-connected disability; (b) a veteran with a service-connected disability rated at 50 percent or more; (c) a veteran receiving or eligible to receive a VA pension; (d) a veteran whose annual income does not exceed the maximum annual rate of pension which would be payable if the veteran were eligible for pension; (e) a veteran for whom ambulance, wheelchair-van, or other special mode of transportation is medically indicated if an administrative decision is made that the veteran is unable to bear the cost of such transportation; (f) a veteran who is determined (under regulations prescribed by the Administrator) to be unable to defray the expenses of the travel; and (g) such other persons as the Administrator determines by regulation.

Senate bill: The Senate bill would specify that the following persons are eligible for beneficiary travel payments for travel for the purpose of examination, treatment, or care: (a) a person receiving benefits for or in connection with a service-connected disability; (b) a veteran in receipt of a pension; (c) veterans described in clause (d) and (f) of the above description of the House provision; and (d) a veteran traveling for the purpose of a compensation or pension examination.

Conference agreement: The conference agreement (section 108(a)) would specify that the following persons are eligible for beneficiary travel payments for travel for the purpose of VA examination, treatment, or care for which they are eligible: (a) a veteran or other person traveling in connection with treatment for a service-connected disability (as in the House and Senate provisions); (b) a veteran with a service-connected disability rated at 30 percent or more; (c) a veteran in receipt of a pension (as in the House and Senate provisions); (d) a veteran whose annual income does not exceed the maximum annual rate of pension which would be payable if the veteran were eligible for pension (as in the House and Senate provisions); (e) a veteran who is determined (under regulations prescribed by the Administator) to be unable to defray the expenses of the travel (as in the House and Senate provisions); (f) subject to restrictions described below with respect to advance authorization, a veteran or other person whose travel is medically required to be performed by a special mode of travel and who is determined (under such regulations) to be unable to defray the expenses of the travel; and (g) a veteran traveling for the purpose of a compensation or pension examination (as in the Senate provision). In addition, the Administrator would be authorized to provide, by regulation, for beneficiary travel payments to other persons.

Payment for Travel by Special Mode

House bill: The House bill, as noted above, would provide for reimbursement up to the actual expense incurred by a veteran for whom a special mode of transportation is medically indicated if an administrative determination is made that the veteran is unable to bear the cost of such transportation.

Senate bill: The Senate bill would, in the case of travel by a special mode of transportation, authorize reimbursement where the Administrator authorizes such travel in advance, or where a medical emergency requires the use of a special mode, and obtaining prior authorization would be hazardous to the person's health. The Senate bill would also authorize the Administrator to provide payment prior to determining the veteran's eligibility if the Administrator determines that it is in the best interest of furnishing care and services, subject to subsequently recovering the payment from the veteran if the veteran is determined to be ineligible.

Conference agreement: The conference agreement (section 108(a)) contains the Senate provision with an amendment (derived from the House bill) to provide for payment of the travel costs for a veteran as to whom a decision is made by the Administrator that the veteran is unable to bear the cost of the medically-indicated special-mode transportation even though it was not authorized in advance.

Deductible and Related Provisions

Senate bill: The Senate bill would (a) require a $3.75 one-way deductible in connection with VA health-care travel, except for travel in connection with compensation and pension examinations and travel by special mode; (b) apply a $22.50 cap per month on the deductible for pre-approved frequent travelers; (c) allow the deductible to be waived in cases where payment of a deductible would cause severe financial hardship; and (d) require the deductible and the cap to be modified at the same time and by the same percentage as the Administrator increases the rates of allowances and reimbursements paid under section 111.

House bill: No provision.

House amendment: No provision.

Conference agreement: The conference agreement contains the Senate provision with an amendment to reduce the deductible to $3 per one-way trip and the cap for pre-approved frequent travelers to $18 per month.

Allocation of Beneficiary Travel Funds to Facility Directors

Senate bill: The Senate bill would require that, with respect to each fiscal year in which the VA makes any beneficiary travel payments, the Administrator provides each VA medical facility with an allocation sufficient to make beneficiary travel payments in accordance with the Senate provision described above.

House bill: No provision.

Conference agreement: No provision.

Local Waivers

Senate bill: The Senate bill would provide to VA facility directors, subject to the approval of the Chief Medical Director, flexibility to reduce or eliminate beneficiary travel payments by providing for waivers in certain circumstances and would provide that any funds allocated to a facility but, pursuant to a waiver, not expended for beneficiary travel payments be available to the facility director for direct patient-care services.

House bill: No provision.

Conference agreement: No provision.

Voluntary Transportation Networks

Senate bill: The Senate bill would (a) require the Administrator, in consultation and coordination with the Secretary of Transportation and veterans' service organizations, to take all appropriate steps to facilitate the establishment and maintenance of local transportation networks under which organizations, or individuals who are volunteering their services to the VA, would take responsibility for the transportation of veterans to VA facilities without reimbursement from the VA, and (b) require the Administrator to submit to the Veterans' Affairs Committees a report, not later than 6 months after enactment, on the implementation of this provision.

House bill: No provision.

Conference agreement: The conference agreement (section 108(b)) contains these provisions.

The conferees note that some transportation provided to veterans in connection with their receiving VA care or treatment is offered free of charge and that this practice is expected to increase as a result of emphasis being placed on the voluntary transportation networks that would be required to be promoted by this legislation. In this regard, the conferees further note that, under the statutory language (both current and as proposed in the conference agreement), reimbursement may not exceed the "actual expense" of travel (section 111(e)(2)(C)). The conferees intend that, in those instances in which a veteran receives transportation at no cost through such a network or in other situations (such as car pools), no payment for beneficiary travel would be made. If the veteran actually incurs some expense in a joint traveling arrangement, reimbursement should be made only for the lesser of the amount of the expenses incurred or the amount provided in law (section 111(e)(2) (B) and (C) of title 38).

Effective Date

House bill: The House bill would take effect on October 1, 1987.

Senate bill: The Senate bill would take effect on the date of enactment.

House amendment: The House amendment would take effect on the date of enactment.

Conference agreement: Except for the provisions relating to voluntary transportation networks, which would take effect on the date of enactment, the conference agreement would take effect on July 1, 1988.

Interfacility Travel

The conferees further note that no mention is made in either the House bill, the Senate bill, or the conference agreement for payments for interfacility travel, that is, the travel of VA beneficiaries between health-care facilities. The conferees are advised that the VA may use its general health-care authority other than section

111 to provide for such travel, and understand that generally VA health-care facilities have used general VA health-care authority and funds, rather than section 111 and funding earmarked for beneficiary travel, to provide for facility-to-facility transfers. The conferees do not intend to restrict such general authority or require any changes in current practices with regard to payment for this type of travel expense.

Services to Overcome Service-Connected Disability Impairing Procreation

Senate bill: The Senate bill (section 301 of S. 9) would amend section 601(6) of title 38, relating to the definition of "medical services" for purposes of VA health-care programs, to authorize the Administrator to furnish services to help a veteran or veteran's spouse achieve pregnancy in cases in which the veteran's service-connected disability impairs the veteran's ability to procreate.

House bill: No provision.

Conference agreement: No provision.

PART B—PILOT PROGRAMS AND REPORTS

Adult Day Health-Care Program

House bill: The House bill (section 108 of H.R. 2616) would amend section 602(f)(3) of title 38, relating to adult day health care, to extend the adult-day-health-care authority for 3 years, through September 30, 1991, and would amend section 301(a) of Public Law 98-160, relating to a study and report to the Committee on Veterans' Affairs on such care, to make the February 1, 1988, report an interim one and to require a final report by February 1, 1981.

Senate bill: No provision.

Conference agreement: The conference agreement (section 111) contains this provision.

Report on Use of Contract-Care Authorities

House bill: The House bill (section 110 of H.R. 2616) would repeal section 201(b) of Public Law 96-22, requiring the Administrator to submit to the Committee on Veterans' Affairs an annual report on the VA's furnishing of contract care.

Senate bill: The Senate bill (section 303 of S. 9) would modify section 201(b) to update the requirement for the report in light of changes made by Public Law 99-272 in the statutory framework of VA contract authorities.

Conference agreement: The conference agreement (section 112) follows the Senate bill, with amendments requiring the Administrator to submit the report with the agency's annual budget submission to the Congress, and cover the VA's utilization of all of its contract-care authorities.

The conferees intend that the report contain statistics showing the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38) in each of the categories described in the following title 38 provisions: (1) section 603(a)(1)(A) and (B); (2) section 603(a)(2)(A), (B), and (C); (3) section 603(a)(3), (4), (5), (6), (7), and (8) (as added by section 104 of the conference agreement) with breakdowns showing inpatient care and outpatient treatment separately; (4) section 612A(e)(1); (5) section 620(a) and (f); (6) section 460A; and (7) section 115 of this Act.

Pilot Program of Mobile Health-Care Clinics

Senate bill: The Senate bill (section 315 of S. 9) would require the VA, in order to evaluate the impact on access to VA health-care services in isolated rural areas at least 100 miles from the nearest VA health-care facility, to conduct at 2-year mobile health-care clinic pilot program using eight appropriately equipped mobile clinics staffed by VA employees to furnish care in geographically-dispersed areas. Annual expenditures for this program would be limted to $5 million. The VA would be required to submit a report to the Veterans' Affairs Committees, not later than 20 months after the start of the program, on experience with the first 17 months of the pilot program. A final report would be required not later than 27 months after the program had begun.

House bill: No provision.

Conference agreement: The conference agreement (section 113) contains this provision with amendments providing a specific appropriations authorization of $5 million per year and making the VA's exercise of the pilot program authority discretionary and subject to funds being expressly appropriated for this purpose.

Modification of Report on Care Furnished to Veterans Having Chronic Mental Illness Disabilities

Senate bill: The Senate bill (section 105(a) of S. 477) would require the VA, as part of a statutory report on the treatment of veterans with chronic mental illness disabilities, to provide information on the number of veterans being treated by the VA for mental illness disabilities who were furnished inpatient care by the VA in fiscal years 1984 through 1986 and an estimate of those furnished inpatient care by the VA in fiscal year 1987, together with an analysis of any change in the numbers of such veterans furnished such care during the period covered by the report, with a particular emphasis on any impact on such numbers from the implementation of the VA's new resource allocation methodology.

House bill: No provision.

Conference agreement: The conference agreement (section 114) contains this provision with an amendment to limit the requirement for data collection "to the extent feasible" and to fiscal years 1986, 1987, and 1988.

Pilot Program of Community-Based Residential Care for Homeless Chronically Mentally Ill and Other Veterans

House bill: The House bill, in a freestanding provision (section 111 of H.R. 2616), would (a) require the Administrator to conduct a pilot program, through September 30, 1988, to provide care and treatment and rehabilitative services (by contract or otherwise) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based facilities to homeless veterans suffering from chronic mental illness disabilities who would be eligible for inpatient care from the VA by virtue of their status as so-called "Category A" veterans; (b) authorize the appropriation of $6,000,000 for this pilot program with no less than $250,000 to be expended for management and monitoring of the program; (c) repeal section 620C, an existing statutory authority for providing such care, treatment, and services to a veteran who is being furnished VA hospital, domiciliary, or nursing home care for chronic mental illness disability, a veteran who is homeless who has such a disability, or a veteran with a service-connected disability rated 50 percent or greater who has a chronic mental illness disability; and (d) require a report by May 1, 1988, on the pilot program to that date.

Senate bill: The Senate bill (section 105 (b), (c), and (d) of S. 477) would (a) require the VA, utilizing the authority in section 620C, to carry out a pilot program through September 30, 1989, through which homeless veterans suffering from chronic mental illness disabilities would be provided community-based residential care; require a report to be submitted by February 1, 1989, on the first 18 months of this pilot program; and (c) provide for the continuation beyond the end of fiscal year 1987 of the VA's section 620C authority to contract for community-based psychiatric residential care for certain veterans with chronic mental illness disabilities, and expand that authority to include care for veterans who need such care for a service-connected disability.

Conference agreement: The conference agreement (section 115) contains the House provision with amendments which would (a) extend the pilot program through September 30, 1989, at an authorization level of $6,000,000 annually; (b) authorize the VA to include in the pilot program veterans suffering from chronic mental illness disabilities who are currently in VA hospitals or nursing homes as well as veterans not in VA facilities who have service-connected chronic mental illness disabilities; and (c) include provisions currently in section 620C which authorize the VA to provide in-kind assistance to contract facilities.

The conferees note that the purpose for allowing for the expansion, described in item (b), above, of those who would be eligible to participate in the pilot program would be to test an alternative to institutionalization for those veterans.

The conferees also note that the enactment of this pilot program does not in any way limit existing VA authority, as described in the explanatory statement which was inserted in the Record during consideration of the legislation that was enacted as Public Law 99-166—appearing on page H 9368 of the October 30, 1985, Record and on page S 15272 of the November 13, 1985, Record, to furnish such community-based services to veterans with service-connected chronic mental illness disabilities for such disabilities.

Regarding the drafting of this provision, the conferees note that the terms "care, treatment, and rehabilitative services" are intended to have the same meaning as under section 620C and that, in providing eligibility based on eligibility under section 610(a)(1) (the "Category A" eligibility), the Conferees do not intend to require that a veteran be in need of hospital or nursing home care in order to be eligible for care and services under the pilot program.

Pilot Program of Noninstitutional Alternatives to Institutional Care

Senate bill: The Senate bill (section 306 of S. 9) would amend subchapter II of chapter 17 of title 38, relating to VA hospital, nursing home, domiciliary, and outpatient care, to require the VA to conduct a 4-year pilot program, from January 1, 1988, through December 31, 1991, at not less than five nor more than ten demonstration projects under which veterans eligible for and otherwise in need of Va hospital care, nursing home care, or domiciliary care would instead receive care, including health-related services from non-VA entities, in non-institutional settings.

House bill: No provision.

Conference agreement: No provision.

Programs To Assist Homeless Veterans

Senate bill: the Senate bill (sections 102, 103, and 104 of S. 477) would: (section 102) establish a 24-month pilot project in ten areas to "undertake and evaluate various activities otherwise authorized by law" as well as activities (1) designating VA employees to coordinate efforts to assist homeless veterans, (2) authorizing cooperation with other entities assisting homeless persons, and (3) facilitating volunteer activities by VA employees to assist homeless persons; (section 103) require the Administrator to report within 90 days of enactment on (1) efforts during 1987 to provide outreach to homeless veterans, (2) effects of such outreach, and (3) any plans to expand outreach; (section 104) require the VA, within 180 days of enactment, in coordination with other Federal entities, to carry out a survey of the number of homeless veterans and submit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, including a detailed breakdown on problems and use of VA programs, and the reasons for non-use of such programs.

House bill: No similar provision.

Conference agreement: The conference agreement (section 116) contains a provision derived from the Senate provision to require annual reports for three years (1989, 1990, and 1991) concerning the activities of the VA to assist homeless veterans including oureach, delivery of medical and other benefits, and plans for such assistance activities.

The conferees expect that the report will include information regarding the progress of the VA's program for homeless chronically mentally ill veterans and the expansion of the domiciliary program for homeless veterans as well as other activities. The conferees view outreach efforts to include coordination of VA activities, coordination and cooperation with other Federal and non-Federal homeless activities, and facilitating volunteer efforts of VA staff.

PART C—MATTERS RELATING TO AIDS

Senate bill: The Senate bill (section 308 of S. 9) would—

(a) require the VA to (1) establish and carry out information and training programs for employees and patients, including (A) the development (in consultation with the Surgeon General and the Director of the Centers for Disease Control) of publications and other materials on AIDS, including AIDS preventive information, (B) the periodic dissemination of the 1986 Surgeon General's Report on AIDS and other materials on AIDS, (C) the making of AIDS materials available in VA waiting rooms, and (D) the dissemination to VA drug abuse treatment personnel and all VA drug-abuse patients and other high-risk patients of the 1986 Surgeon General's Report and other AIDS preventive materials; and (2) establish and carry out a program for AIDS education, training, and other activities (including continuing education and infection control programs) designed to improve the effectiveness and safety of health-care personnel and health-care support personnel;

(b) amend section 4132 of title 38, relating to the confidentiality of VA medical records regarding alcohol and drug treatment, to (1) prohibit generally the disclosure of the records of the identity, diagnosis, or treatment of any patient infected with the human immunodeficiency virus (HIV), the virus that causes AIDS, except in medical emergencies or for the purpose of conducting scientific research and audits, but would authorize the release of the information (upon written request) to a public health or safety officer in a State requiring the infection to be so reported or to Federal health or safety officers pursuant to a requirement of Federal law; (2) provide that a disclosure of medical records relating to infection with the HIV would not be prohibited where it is required or authorized by a law having general applicability to Federal health-care services programs; and (3) provide that a VA physician or counselor may, as medically appropriate and in order to protect the health of a veteran's spouse or sex partner, disclose the results of an HIV test to the spouse or sex partner if, after reasonable efforts are made to encourage the veteran to do so, the physician or counselor concludes that the veteran will not;

(c) amend section 4133, relating to a prohibition against discrimination in the furnishing of VA health-care services against drug and alcohol abusers, to prohibit such discrimination against veterans infected with the HIV, based solely on their infection; and

(d) prohibit the VA from implementing any widespread HIV-testing program unless Congress specifically appropriates funds for that purpose, except that, within 180 days after the date of enactment, the VA would be required to promulgate regulations providing for a program under which the VA (1) would offer the HIV test, with pre- and post-test counseling, to all VA hospital patients who are (A) receiving inpatient treatment for intravenous drug abuse, (B) receiving treatment for a disease associated with HIV infection, (C) otherwise at high risk for infection, or (D) under 40 years old, and (2) would be prohibited from administering the test without the patient's informed and separate written consent.

House bill: No provision.

Conference agreement: The conference agreement (sections 121–124) contains these provisions with amendments that would:

(a) modify the reference in the provisions described in item (a)(1) (B) and (D), above, to the Surgeon General's Report on AIDS to delete the specific reference to 1986 in order to make the provisions applicable in the future to the then-current version;

(b) modify the requirement (described in item (a)(1)(C), above) to make AIDS materials available in VA waiting rooms so as to require the materials to be made available in all VA health-care facilities and such other facilities as the Administrator considers appropriate;

(c) delete the authority (described in item (b)(1), above) to disclose information to public safety officers and the authority (described in item (b)(2), above) for disclosures required or authorized under certain other Federal laws;

(d) limit the use and redisclosure of information by a recipient to the use and redisclosure for the specific purpose for which the VA's original disclosure was made;

(e) increase the penalties for disclosures in violation of section 4132 from $500 for a first offense and $5,000 for each subsequent offense to $5,000 and $20,000, respectively, by providing that the penalties would be the same as those prescribed in section 3301(f) of title 38 for unlawful disclosures of the names and addresses of VA beneficiaries;

(f) prohibit disclosure to any person other than the patient or subject involved of the need for a special informed consent form to be completed in a specific case for the disclosure of records of alcohol and drug abuse, sickle cell anemia, and HIV infection;

(g) modify the provision (described in item (b)(3), above) to provide that disclosure may be made by a physician or counselor who did not conduct the test or provide the counseling if the patient's or subject's physician or counselor is unavailable because of an absence or termination from employment.

(h) substitute for the provision (described in item (d)(1)(D), above), which would require the VA to offer the HIV test to all VA patients under 40 years old, a requirement that the VA, except when medically inadvisable, offer testing, subject to informed, separate, written consent and with pre- and post-test counseling, to any veteran-patient who requests the test; and

(i) clarify that the test would be offered to all VA patients—not just VA hospital patients—who are receiving any type of VA-sponsored treatment for intravenous drug abuse or who are otherwise at risk for infection.

The conferees stress that all counseling with regard to the HIV testing should be conducted by a physician or other health-care professional who has received specific training and education on the most up-to-date information regarding AIDS and the test.

The confereees also direct that, in addition to the items mentioned in the Senate Committee report on S. 9 regarding the content of pre-test counseling (S. Rept. No. 100–215, page 125), the CMD's guidelines include a requirement that individuals be counseled that the results of the test may be disclosed to the spouse or sex partner.

The conferees also stress that, whenever possible, the disclosure of HIV infection to a patient's or subject's spouse or sex partner should be made by the physician or counselor providing the counseling to the patient or subject. Thus, the conferees do not intend that a brief absence, such as a short sick leave or vacation, would ordinarily be sufficient for allowing an alternative physician or counselor to make the disclosure.

PART D—OTHER MATTERS

Definition of Veterans' Administration Medical Facilities To Include Certain Recreational Facilities

House bill: The House bill (section 104 of H.R. 2616) would amend section 601(4) of title 38, relating to the definition of "Veterans' Administration facilities", to add to the definition public or private non-VA facilities at which the Administrator provides recreational activities for patients receiving VA hospitals, nursing home, or domiciliary care.

Senate bill: No provision.

Conference agreement: The conference agreement (section 131) contains the House provision.

The conferees expect that no significant increase in VA expenditures will be incurred for these recreational activities as a result of this provision.

Veterans' Administration Assistance With Recreational Activities

House bill: The House bill (section 4 of H.R. 3449) would amend section 202 of title 38, relating to the seal of the VA, to allow the Administrator to authorize the use, for approved purposes, of the VA seal and other official VA symbols and of the name "Veterans' Administration" by any person making significant contributions to the VA for the support of special recreational activities for the rehabilitation of disabled veterans.

Senate bill: The Senate bill (section 314 of S. 9) would amend section 612 of title 38, relating to eligibility for VA outpatient care, to authorize the Administrator (a) to provide, or assist veterans' service organizations in providing, recreational activities which would further the rehabilitation of disabled veterans if the activities are available on a national basis and a significant percentage of the participants are veterans eligible for VA rehabilitative services, and (b) to accept contributions of funds and other assistance from any appropriate source for the support of such activities and permit the donor to advertise the activity or its participation if the Administrator has approved the advertisement and it clearly states that any product, project, or commercial line of endeavor has not been endorsed by the VA.

Conference agreement: The conference agreement (section 132) contains both the House and Senate provisions with an amendment modifying the Senate provision so as to delete the authorization of the VA itself to provide the rehabilitative recreational activities and thus authorize the VA only to assist in the provision of these services.

The conferees encourage the VA to continue with its collaboration and joint efforts in sponsoring recreational activities such as the wheelchair games in which disabled veterans participate. The conferees expect that no significant increase in VA expenditures will be incurred for these efforts as a result of these provisions.

Rules and Regulations Relating to Veterans' Administration Health Care

Senate bill: The Senate bill (section 309 of S. 9) would amend section 621 of title 38, relating to rules and regulations concerning the furnishing of health-care services, to restrict the Administrator's authority to prescribe limitations on the furnishing of health-care services by the VA so as to permit the exercise of that authority only in times of national or regional emergencies (other than periods of war or emergency covered in section 5011A of title 38).

House bill: No provision.

Conference agreement: The conference agreement (section 133) contains this provision.

Per Diem Rates for Care in State Homes

House bill: The House bill (section 1 of H.R. 1659) would, effective October 1, 1987, amend section 641 of title 38, relating to VA per diem payments to State Homes for the care of eligible veterans, to increase the rates from $7.30 to $9.00 for domiciliary care and to $20.35 for nursing home and hospital care from $17.05 and $15.25, respectively.

Senate bill: The Senate bill (section 310 of S. 9) would, effective October 1, 1987, amend section 641 to increase the payments for domiciliary care to $8.70 and for nursing home and hospital care to $20.35, subject to the availability of appropriations, and, effective October 1, 1988, to authorize the VA to increase these rates annually, beginning in fiscal year 1989, by a percentage not greater than the percentage increase in the cost of care in VA general hospitals, as calculated (under section 620(a)(2)) for purposes of determining the maximum amount the VA may pay for contract care in community nursing homes.

House amendment: The House amendment (section 134) would, effective January 1, 1988, increase the State home per diem rates for domiciliary care to $8.70 and for nursing home and hospital care to $20.35.

Conference agreement: The conference agreement contains the provision of the House amendment and the Senate provision authorizing the VA, effective October 1, 1988, to increase the rates annually.

Medical Research

Senate bill: The Senate bill (section 316 of S. 9) would amend section 4101(c)(1) of title 38, relating to the research mission of DM&S, (a) to add mental illness research as a specific DM&S research mission, and (b) to add post-traumatic stress disorder (PTSD), dementias, and other mental disorders as specific research areas to be stressed.

House bill: No provision.

Conference agreement: The conference agreement (section 135) contains the first provision with amendments (1) to specify that the DM&S research mission includes prosthetic and other rehabilitative research, and (2) to add a reference to injuries or illnesses particularly related to service as a specific research area to be stressed.

The conferees intend that funding for mental illness research and prosthetic and other rehabilitative research be increased significantly but direct the CMD not to increase funding for those two research missions at the expense of biomedical and health services research. The conferees also note their interest in PTSD research and other research relating to service-related disabilities.

Conversion of Underutilized Space to Domiciliary-Care Beds

Senate bill: The Senate bill (section 107 of S. 477) would require the VA, not later than January 1, 1988, unless impractical to do so, to convert underutilized space in VA facilities located in areas with significant populations of homeless veterans, to 500 domiciliary-care beds to care for veterans in need of such care, primarily homeless veterans.

House bill: No provision.

Conference agreement: The conference agreement (section 136) contains this provision with an amendment to postpone the deadline to June 1, 1988.

The conferees note that the intent of this provision has been substantially carried out by the VA as the result of the enactment of Public Law 100–71, the 1987 Supplemental Appropriations Act, which appropriated $15 million to the VA for the purpose of expanding domiciliary capacity in order to provide care primarily for eligible homeless veterans in urban locations.

Medicaid Treatment of Per Diem Payments to State Homes

Senate bill: The Senate bill (section 312 of S. 9) would amend section 641 of title 38, relating to VA per diem payments to State Homes for the care of eligible veterans, to specify that the VA payments are not to be considered third-party liabilities for purposes of payments under the Medicaid program.

House bill: No provision.

Conference agreement: The conference agreement does not contain this provision.

Furnishing of Tobacco Products

Senate bill: The Senate bill (section 341 of S. 9) would amend section 615 of title 38, relating to furnishing tobacco products to hospitalized veterans, to repeal the Administrator's authority to provide free tobacco products to veterans receiving hospital or domiciliary care.

House bill: No provision.

Conference agreement: No provision.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

Health-Care Quality-Assurance Activities

Senate bill: The Senate bill (section 201 of S. 1464) would amend chapter 73 of title 38, relating to the organization of the Department of Medicine and Surgery (DM&S), to achieve the following purposes:

(a) Establish in the Office of the CMD an expanded and autonomous Office of Medical Inspector General consisting of the following personnel:

(1) The Medical Inspector General (MIG) who would be required to be (A) the head of the Office of the Medical Inspector General, (B) directly responsible to the CMD for such functions as may be assigned to the MIG in regulations by the CMD, and (C) a qualified doctor of medicine appointed by the Administrator upon the CMD's recommendation.

(2) Not less than five Assistant MIGs who would be required to be (A) qualified doctors of medicine, doctors of dental surgery or dental medicine, or registered nurses, and (B) employed on a full-time basis in the VA.

(3) Not less than two registered nurses (including any who are Assistant MIGs), not less than one qualified doctor of dental surgery or dental medicine (who may be an Assistant MIG), and not less than five support personnel, all of whom would be employed on a full-time basis in the VA.

(b) Require the MIG be appointed for a term of 4 years, with reappointment permissible for successive like periods and subject to removal by the Administrator only for reasonable cause upon the CMD's recommendation.

(c) Require the MIG to monitor, review, and investigate any adverse incident which is experienced by a patient during the course of the patient's care in a VA health-care facility, including any incident that would not normally be considered a natural consequence of a patient's disease process or illness and any incident that would carry a recognized need for medical intervention.

(d) Require the MIG to conduct such reviews and investigations as the MIG considers necessary to identify problems in the provision of health care to veterans and, when problems are detected, to propose to the CMD such corrective measures as the MIG considers necessary or appropriate.

(e) Require the MIG to conduct such other studies, reviews, and investigations relating to the quality of health care provided to veterans as the Administrator or CMD may assign to the MIG.

(f) Provide the MIG sole discretion (other than with respect to matters assigned by the Administrator or CMD) in determining whether to investigate any incident involving patient care or to study or review any problem in the provision of health care to veterans.

(g) Require the MIG, when conducting an investigation of any incident involving the care of a patient or any study or review of any problem in the provision of health care to veterans, to assign at least one health-care professional from the Office of the MIG.

(h) Require the MIG to submit to the House and Senate Veterans' Affairs Committee not later than February 1 of each year a report on the activities of the Office of the MIG during the prior fiscal year, including—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of DM&S programs and op-

erations disclosed by MIG activities during the preceding fiscal year;

(2) a description of (A) the recommendations for corrective action and of any recommendations for disciplinary action made by the Office during the preceding fiscal year with respect to significant problems, abuses, or deficiencies identified in VA health-care programs, and (B) the action taken as of the end of the fiscal year on each such recommendation, including any recommendations on which action had not been completed prior to the end of the fiscal year;

(3) a specification of (A) which MIG activities were carried out as a result of a request by the Administrator or CMD, and (B) which activities were carried out on the initiative of the MIG;

(4) an identification of each significant recommendation for corrective or disciplinary action described in the report or in previous annual reports on which action has not been completed.

(5) a summary of any matters referred to prosecutorial authorities and the prosecutions and convictions which have resulted; and

(6) a summary of each incident in which information or assistance requested by the MIG from DM&S during the preceding fiscal year has been, in the judgment of the MIG, unreasonably refused or not provided.

(i) Require the MIG to be an ex officio, nonvoting member of all policymaking bodies within the central office of DM&S that are concerned with the quality of health care provided in VA facilities or that are concerned with quality assurance in the provision of care, but preclude the MIG from having any direct responsibility for quality assurance activities, including patient risk management and the reporting of patient injuries under quality assurance procedures.

(j) Require the Administrator to transfer to the Office of the MIG each fiscal year, out of any funds available to the VA for that fiscal year (other than funds available for the operation of the Central Office of DM&S) those amounts as may be necessary, as determined by the CMD, to support five full-time medical doctors and five full-time support personnel in the Office of the MIG.

(k) Require that the positions of five full-time medical doctors and five full-time support personnel in the Office of the MIG be counted against the number of full-time employees authorized by OMB for the program, function, or activity for which the funds transferred to the Office of the MIG would be available except for the transfer of funds.

(l) Require, in the event that the Administrator transfers to the Office of the MIG funds from more than one program, function, or activity, that the ten full-time positions be counted against the number of the positions authorized by OMB for each program, function, or activity in proportion to the amount of funds transferred from them.

The Senate bill (section 202 of S. 1464) also would amend section 4103(a)(4) of title 38, relating to the organization of the Office of the CMD, to require that one Assistant CMD be a qualified physician trained in, or having suitable extensive experience in, health-care quality assurance and risk management and be responsible to the CMD for carrying out the responsibilities under the VA's quality assurance program assigned to the CMD in subchapter V of chapter 73 of title 38 and other related quality assurance responsibilities as may be assigned to the Assistant CMD by the CMD.

The Senate bill (section 203 of S. 1464) also would amend section 4151 of title 38, relating to the VA's Quality Assurance Program, to require the CMD to take such action as may be necessary to ensure that all DM&S personnel (a) are given a periodic explanation of their responsibilities for the quality assurance activities of DM&S, and (b) are advised that any failure to comply with quality assurance procedures prescribed in regulations or in procedural publications issued by DM&S, including any failure to report any incident as required under those procedures, will result in appropriate disciplinary action.

The Senate bill (section 204(a) of S. 1464) also would amend chapter 3 of title 38, relating to the general structure and functioning of the VA, to achieve the following purposes:

(a) Establish, within the VA Office of the Inspector General, in addition to the positions of VA Assistant Inspectors General provided for under section 3(d) of the Inspector General Act of 1978 (5 U.S.C. App. 3), the position of Assistant Inspector General for Health Care Quality Assurance Review (AIG).

(b) Require the Administrator to make available to the Office of the Inspector General sufficient resources to provide for an AIG and other specified personnel (described under clause (d), below) to enable the AIG and such personnel to perform their duties.

(c) Require the AIG to be a qualified doctor of medicine appointed by the VA Inspector General (IG).

(d) Require the staff of the AIG to include, at a minimum, two qualified doctors of medicine, a qualified doctor of dental surgery or dental medicine; a qualified registered nurse, an attorney who has expertise in health-care law, an individual who has expertise in health-care quality assurance and risk management, an individual who has expertise in health-care administration, and a sufficient number of support and additional personnel, not less than five full-time equivalent employees, to enable the AIG to perform the duties of the office.

(e) Require the AIG, in addition to performing (with respect to the activities of DM&S) such other functions and duties prescribed for the VA IG in the Inspector General Act of 1978 (5 U.S.C. App. 3) as may be directed by the IG, to—

(1) monitor, including through reviews of VA health-care facilities, the establishment and implementation of VA health-care quality assurance and risk management programs;

(2) monitor the activities of the MIG;

(3) recommend that the MIG conduct such investigations as the AIG considers appropriate;

(4) coordinate the activities of the AIG with the activities of the MIG;

(5) review any investigation conducted by the MIG of any adverse incident or incidents occurring during the course of furnishing health-care services in a VA facility or facilities and

make such recommendations for additional action to the MIG as the AIG considers appropriate;

(6) monitor and analyze the collection and analysis of quality assurance and risk management information by DM&S (including information relating to medical malpractice claims), review such quality assurance and risk management information in order to identify data that are not collected and should be collected, and monitor the analysis by DM&S of trends in the provision of health care services by DM&S;

(7) make such recommendations to the IG of corrective action on health-care matters as the AIG considers appropriate; and

(8) monitor the implementation of recommendations for corrective action made to the Administrator by the IG on health-care matters.

(f) Require the VA IG, in addition to preparing and submitting the reports required by the Inspector General Act of 1978, to submit to the Administrator and the House and Senate Veterans' Affairs Committees, not later than February 1 of each year, a report containing—

(1) a discussion of the activities undertaken by the AIG during the fiscal year preceding the fiscal year in which the report is submitted, including (A) the findings and conclusions resulting from such activities, (B) the recommendations made (on the basis of such activities) by the IG to the Administrator for corrective action in the Activities of DM&S, and (C) any corrective actions taken with respect to those recommendations; and

(2) a discussion of the activities undertaken by the AIG to monitor the MIG's activities during the fiscal year preceding the fiscal year in which the report is submitted, including (A) the findings of the IG and the AIG on the activities of the MIG during the preceding fiscal year, (B) the recommendations, if any, made by the IG to the CMD or the Administrator on the basis of such monitoring activities, including any recommendations for remedial or disciplinary actions as a result of such activities, and (C) an assessment of the extent to which the IG has been effective during such preceding fiscal year in bringing about the recommended remedial and disciplinary actions.

(g) Require that the rate of pay for the position of AIG be the same rate of pay established for the positions of the other VA Assistant Inspectors General.

The Senate bill (section 204(b) of S. 1464) also would amend section 4151(e)(2) of title 38, relating to the requirement that the IG allocate sufficient personnel and other resources to monitor the VA's quality assurance program, to specify that such personnel and other resources be allocated to the AIG.

House bill: No provision.

Conference agreement: The conference agreement (section 201) contains the following provisions:

(a) Not later than 60 days after the date of enactment, the Administrator would be required to take actions to improve the operation of the health-care quality assurance programs and activities in the VA, including actions to achieve the following purposes:

(1) Upgrade the office of Quality Assurance within the DM&S Central Office and assign to that office responsibility for risk management activities (to be carried out with the concurrence of the General Counsel).

(2) Expand, and assign higher priority and greater resources to, quality-assurance programs and activities at each VA health-care facility, including implementation of occurrence screening and the maximum utilization of the facility's computerized management information system for such activities.

(3) Upgrade and expand the Office of the Medical Inspector in the DM&S Central Office, including increasing the number of employees assigned to such office on a full-time basis so as to ensure that each medical inspection carried out by that office includes at least one such full-time employee and otherwise ensuring such adequate numbers of, and such skills and training on the part of, the employees assigned to that office as are necessary to ensure the independence, objectivity, and accountability of that office.

(4) Upgrade and expand the activities of the VA's Office of the Inspector General (OIG) in overseeing, monitoring, and evaluating the operations of the DM&S's quality-assurance programs and activities and its Medical Inspector Office so as to provide the CMD, the Administrator, and the Congress with clear and objective assessments of the effectiveness of those programs and operations, including ensuring such numbers of, and such skills and training on the part of, employees assigned to the OIG as are necessary to carry out such oversight, monitoring, and evaluation effectively.

(b) Not later than 75 days after the date of enactment, the Administrator would be required to submit to the Committees a report describing the actions taken to carry out the provisions in the conference agreement, including reports of the CMD and the IG on such actions, and any future actions planned (and a timetable therefor) in connection with such actions. The report would be required to include—

(1) the Administrator's views on (A) the effectiveness of quality-assurance and risk-management and medical-inspection programs and activities in DM&S and of the oversight, monitoring, and evaluation prior to the implementation of such actions, and (B) how those actions will improve the effectiveness of these programs and activities; and

(2) a description of actions that have been or will be taken, (and the justification) by the Administrator, the IG, and the CMD, as appropriate, to make other improvements in such programs and activities and the oversight, monitoring, and evaluation thereof.

The conferees believe that the VA's health-care quality-assurance and risk-management and medical-inspection programs and the oversight and monitoring of those programs by the IG need greater attention and resources from the agency. Rather than mandate precise steps in this regard, however, the conference agreement provides the Administrator, the CMD, and the IG with substantial discretion as to how to proceed to upgrade, expand, and enhance these quality-assurance and medical-inspection programs and activities and monitoring thereof. The conferees feel strongly that the following additional steps should be taken:

1. An office other than that of the Medical Inspector should be assigned the responsibility for monitoring and analyzing the VA's patient-injury-control program.

2. The Medical Inspector should be provided with the authority, funds, and resources to conduct such reviews and investigations as the Medical Inspector considers necessary to identify problems in the provision of health care to veterans, and, when problems are detected, to propose to the CMD necessary and appropriate corrective measures.

3. Action should be taken to ensure that the Medical Inspector is an *ex officio* member of all policymaking bodies within the central office of DM&S that are concerned with the quality of health care provided in VA facilities.

4. The OIG should be required, without expanding its FTEE allocation or total appropriation, to employ individuals with expertise in the areas of medicine and general health care and to allocate adequate resources so as to enable the effective monitoring of quality-assurance, risk-management, and other activities carried out by DM&S.

5. Action should be taken to ensure that the OIG reviews quality-assurance and risk-management information collected by DM&S in order to identify data that are not collected and should be collected, and monitors and analysis by DM&S of trends in the provision of VA health-care services.

The conferees also believe that the VA should give serious consideration to the establishment of a National Quality Assurance Resource Center to develop and evaluate quality-assurance methods based on sound, validated epidemiological principles; compile validated quality-assurance information bases; implement quality-assurance fellowship programs to educate personnel regarding quality-assurance functions and testing; and provide other educational, research, and service support. The conferees expect the VA to describe in the report, to be submitted 75 days after enactment, the consideration and action taken regarding this matter.

Should the broad latitude afforded the Administrator under this provision not achieve the purposes stated in the legislation, the conferees are prepared to recommend specific legislative mandates to enhance the VA quality-assurance, risk-management, and medical-inspection programs and the activities for monitoring and evaluation of those programs.

Hospital Cost Collections and Tort Claims

House bill: The House bill (section 301 of H.R. 2616 would—

(a) amend section 629(b)(2) of title 38, relating to hospital cost collections, to specify that the VA may not institute legal action to recover the cost of certain hospital, nursing home, domiciliary, and medical care more than 6 years after the last day of care for which the recovery is sought;

(b) amend section 4116 of title 38, relating to the defense of certain tort claims, to expand the circumstances under which the Federal government accepts liability for the acts of its employees acting within the scope of their employment so as to cover actions of VA health-care employees that are characterized as intentional torts under the laws of various states; and

(c) amend subchapter II of chapter 3 of title 38, relating to the general authority of the Administrator, to remove a statutory limitation on the authority of the Administrator to settle administrative tort claims under the Federal Tort Claims Act by providing authority to the Administrator to settle claims on the same basis as is now available to U.S. attorneys.

Senate bill: The Senate bill (sections 342 and 343 of S. 9) is substantively identical to the House bill.

Conference agreement: The conference agreement (section 202 and 203) contains these provisions.

Nonprofit Research Corporations

House bill: The House bill (section 2 of H.R. 3449) would amend chapter 73, relating to the Department of Medicine and Surgery, to add a new subchapter VI entitled "Research Corporations". Pursuant to this new subchapter, the Administrator would be authorized to establish a nonprofit corporation at each VA medical center at which significant medical research is carried out in order to provide a mechanism by which research funds received from non-VA sources could be better and more appropriately managed. Provisions in this new subchapter would—

(a) specify that the purpose of such corporations would be to manage funds for medical research in conjunction with the appropriate VA medical center;

(b) describe the membership of the boards of directors (the director, chief of staff, and assistant chief of staff for research of the VA medical center, and individuals from outside of the Federal Government who are familiar with issues involving medical and scientific research, including members who are not affiliated with any source of funding for VA research) and executive directors (individuals appointed by the board of directors, with the concurrence of the VA's Chief Medical Director, who shall be responsible for the day-to-day operations of the corporations);

(c) set forth the general powers of the corporations, including the authority to accept gifts and grants from, and enter into contracts with, various entities in order to carry out such research as may be approved in accordance with VA procedures for VA-funded research and to employ such employees as the corporations consider necessary;

(d) provide that corporations established under this authority shall be established in accordance with the laws of the applicable State relating to nonprofit corporations and, to the extent not inconsistent with Federal law, be subject to the laws of that State;

(e) require that each corporation established under this chapter seek and obtain recognition from the Internal Revenue Service, within three years of its establishment, as a tax-exempt organization;

(f) provide that the VA Inspector General shall have the right to examine the records of any such corporation, require each such corporation to submit an annual report to the Administrator on its operations and activities, and require each member of the board of directors of such a corporation who is a VA employee to submit an annual statement which certifies that the employee is aware of Federal laws and regulations relating to conflicts of interest; and

(g) specify that no such corporations would be authorized to be established after September 30, 1990.

Senate bill: No provision.

Conference agreement: The conference agreement (section 204) contains this provision with amendments which would (a) provide that, in addition to the VA's IG, the Comptroller General would also be authorized to examine the records of any such corporation; (b) require the Administrator to report not less than annually to the two Veterans' Affairs Committees on the number of such corporations and the annual contributions received by each; (c) specify that VA research projects which are funded by such corporations have to be selected by a process which includes peer review; (d) provide that all board members and employees of such corporations and VA employees involved in the functions of a corporation are bound by federal conflict-of-interest laws and regulations and must submit annual certifications of compliance; (e) provide that the authority shall expire 3 years after enactment; (f) and require a report from the Administrator by February 1, 1991, to the two Committees on the results of the use of this authority through September 1990, together with any recommendations for legislative or administrative changes.

State Home Construction Grants

House bill: The House bill (section 2 of H.R. 1659) would amend section 5035(b) of title 38, relating to the awarding of State Veterans' Home construction grants, to change from July 1 to September 30 only during the transition year, 1987, the date for the VA to establish a list of approved projects in the order of their priority.

Senate bill: The Senate bill (section 311 of S. 9) would amend section 5035(b) so as to (a) permanently change from July 1 to September 30 the date for establishing a list of approved projects in the order of their priority; (b) authorize the Administrator to make a conditional award of a grant (while withholding certification of payment until all requirements are actually met) if the Administrator determines that a State has submitted drawings and specifications for a project which are at least 80-percent complete and that the project application will meet all remaining requirements within 180 days; (c) require the Administrator to rescind a conditional grant award and deobligate funds previously obligated if the application is not completed within 180 days; and (d) authorize the Administrator to increase the amount of any grant by 10 percent (but not to an amount in excess of 65 percent of the overall cost of the project) if the Administrator determines both that the estimated cost of construction or acquisition has increased from the estimated cost on which the grant approval was based and that the grant was awarded before the State entered into a construction contract.

Conference agreement: The conference agreement (section 208) contains the Senate provisions amended to (a) establish August 15 as the date by which the annual prioritized list is to be established; (b) revise the findings necessary for the making of a conditional award so as to require findings that the application is sufficiently complete to warrant such an award and that, based on assurances provided by the State, the State will complete the application by a date, not more than 90 days after the conditional award, to be specified by the Administrator; and (c) revise the deadline by which the Administrator is required to deobligate funds to the day after the date specified by the Administrator for the completion of the application.

Community Nursing Home Care in Alaska and Hawaii

Senate bill: The Senate bill (section 307 of S. 9) would amend section 620(a)(2)(A) of title 38, relating to transfers of VA patients for community nursing-home care, to authorize the VA, when contracting for community nursing home care for eligible veterans in Alaska or Hawaii, to pay at a rate of up to 45 percent (up to 50 percent, if determined to be necessary) of the cost of general community hospital care in that state.

House bill: No provision.

Conference agreement: No provision.

Organization of the Office of Chief Medical Director

House bill: The House bill (section 206 of H.R. 2616) would amend section 4103 of title 38, relating to the organization of the Office of the Chief Medical Director (CMD), to (a) authorize the appointment of a second Associate Deputy Chief Medical Director (ADCMD); (b) delete the requirement that the ADCMD be a physician; (c) specify that medical executives in the Office of the CMD would have the right to disciplinary board procedures in the case of removal for cause; and (d) give such executives who were previously appointed under section 4104(1) reemployment rights in the VA health-care system under that section upon the termination of their appointments to the Office of the CMD.

Senate bill: The Senate bill (section 321 of S. 9) would amend section 4103 to authorize the appointment of, in addition to physicians, certain non-physician health-care professionals to various positions in the Office of the CMD and specify that all individuals appointed to CMD Office positions must be qualified in the administration of health services.

Conference agreement: The conference agreement contains neither of these provisions.

PART B—PAY AND OTHER PERSONNEL BENEFITS

Additional Pay Authorities for Nurses To Be Available for Pharmacists and Occupational Therapists

House bill: The House bill (section 7 of H.R. 3449) would amend section 4104(2) and (3) of title 38, relating to appointments of certain DM&S personnel, and section 4107(f), relating to the applicability of VA nurse pay authorities to certain DM&S employees other than nurses, to shift VA pharmacists and occupational therapists into the so-called title 38/title 5 "hybrid" employment category under which the agency may use title 38 appointment, pay, and promotion authorities with respect to specified employees employed under the title 5 personnel system.

Senate bill: The Senate bill (section 322 of S. 9) is substantively identical.

Conference agreement: The conference agreement (section 211) contains this provision.

Recruitment and Retention Bonus Pay

House bill: The House bill (section 3 of H.R. 3449) would amend section 4107 of title 38, relating to the pay of certain DM&S employees, to (a) authorize the VA, subject to the availability of appropriated funds, to pay to registered nurses (RNs) to work at a VA medical center (VAMC) designated by the Administrator as having an "RN shortage" in any clinical service incentive pay in return for long-term employment contracts; (b) provide annual payments of $1,000, $2,000, and $3,000 for terms of 2, 3, and 4 years, respectively; (c) provide for such incentive pay to be paid over the life of the agreement; and (d) require the VA to include in each agreement suitable penalties if the nurse concerned fails to complete the agreed-upon period of employment.

Senate bill: The Senate bill (section 327 of S. 9) would, effective October 1, 1987, amend subchapter 1 of chapter 73 of title 38, relating to the organization of DM&S, to (a) authorize the VA to pay recruitment and retention bonuses of up to $20,000 for a 4-year period of obligated service to full-time registered nurses working in health-care facilities, or other full-time health-care personnel except for dentists and physicians, not presently fulfilling a VA scholarship or other work obligation who agree to work or are working within a specific geographic area or professional specialty experiencing recruitment and retention problems; (b) require that the bonuses generally be paid in equal installments at the end of each year of service but authorize the Administrator to pay up to 25 percent of the overall bonus prior to the beginning of the first year; (c) generally require repayment if a recipient of such an advance payment fails to complete the first year of obligated service; and (d) require that any such bonus be offered to all those serving in the same professional capacity in the same recruitment area.

Conference agreement: The conference agreement (section 212) would (a) authorize the VA to pay RNs annual recruitment and retention bonuses of $2,000, $3,000, and $4,000 in return for commitments to work full-time for 2, 3, or 4 years, respectively, at a VA health-care facility with an RN shortage; (b) authorize the Administrator to pay up to 25 percent of the bonus at the beginning of the period of obligated service; (c) permit employees who fail to complete their commitment period to retain only that amount which they would have received had they entered into an agreement to serve the period actually served, with any period less than a full year not being counted; (d) specify that the payback requirement does not apply if the inability to complete the contract is beyond the employee's control, with separation for cause not being considered to be beyond the employee's control; (e) authorize a pro-rata bonus for part-time employees working at least half-time; and (f) authorize the Administrator to pay these bonuses to health-care employees other than RNs where, upon the recommendation of the CMD, the Administrator finds shortages in the health-profession concerned.

The conferees urge the CMD to notify both Committees if it is found that limiting the advance on the bonus to 25 percent hinders recruitment and retention of qualified employees.

On-Call Pay

House bill: The House bill (section 208 of H.R. 2616) would, effective October 1, 1987, amend section 4107 of title 38, relating to pay for DM&S employees, to require that health-care employees, or employees providing services incident to health-care, who are employed pursuant to title 5 or section 4104(2) or (3) of title 38 who are scheduled to be on-call be paid for each hour of such on-call duty (other than time the employee actually works) at a rate equal to 10 percent of the employees' hourly overtime rate.

Senate bill: The Senate bill (section 328 of S. 9) would amend section 4107 to authorize the VA to utilize the title 38 "on-call" pay provisions, rather than the title 5 "standby" pay provisions, for its title 5 DM&S employees providing health-care services or services incident to patient-care services; and specify that title 5 employees currently earning standby pay who are assigned to on-call status would be entitled to continue to receive pay under the standby system—that is, to be grandfathered in that pay status when that is more advantages to them than "on-call" pay—so long as their employment status does not change.

Conference agreement: The conference agreement (section 213) contains the Senate provision.

Premium Pay for Saturday Work

House bill: The House bill (section 202(a) of H.R. 2616), would, effective October 1, 1987, amend section 4107(e)(3) of title 38, relating to premium pay for VA nurses who work on Sundays, to apply that premium pay rate to nurses who work on Saturdays.

Senate bill: The Senate bill (section 325 of S. 9) is substantively identical to the House bill except that it would take effect on the date of enactment.

Conference agreement: The conference agreement (section 214) contains this provision effective with respect to tours of duty beginning on or after the first day of the first pay period beginning on or after the date of enactment.

Report on Effect of certain Pay and Benefits Amendments

House bill: The House bill (section 11 of H.R. 3449) would require the Administrator to report to Congress, not later than one year after the date of enactment, on (a) the recruitment and retention effects of incentive and additional pay authorities and other provisions of law enacted during the first session of the One Hundredth Congress making changes in pay practices for various health-care professionals in the Department of Medicine and Surgery, and (b) recommendations for further legislative action as the Administrator considers appropriate.

Senate bill: The Senate bill (section 332 of S. 9) would require the Administrator to study various issues relating to enhancing the VA's recruitment and retention of health-care personnel, including (a) whether pay compression exists within the current salary structures and, if it does. the feasibility and cost of revising such structures in order to correct this problem; (b) whether pay differentials for evening and night shifts need to be increased in order to improve the ability of the VA to recruit and retain personnel to work on these shifts; (c) whether it is feasible and desirable for the VA to furnish its healthcare employees with disgnostic testing and laboratory and radiology services and the filling of prescriptions for fees not to exceed the costs incurred by the VA, if that could be accomplished without diminishing services to veterans; (d) whether it is feasible and desirable to give opportunities for research to VA nurses with advanced degrees; (e) whether it is feasible and desirable to establish within the VA collaborative-practice committees which would include physicians, nurses, and other health-care providers as appropriate; (f) whether it is feasible, desirable, and appropriate to offer a program of flexible benefits to VA health-care employees; and (g) whether it is feasible and desirable to increase the responsibilities of the Chief of the Nursing Service.

The Senate bill would also require the CMD, during calendar years 1988–1990, to conduct a pilot program at not less than five VAMCs for the purpose of evaluating the effectiveness of various pay and other personnel management practices, and gaining information and experience regarding the matters required to be studied under this section (described above) and (a) require, as part of the pilot program, that the VA (1) at not less than three sites, increase the responsibilities of the Chief of the Nursing Service in certain respects, (2) at not less than one site, establish a collaborative-practice committee involving physicians, nurses, and, as appropriate, other health-care professionals, and (3) at not less than one site, significantly increase pay differentials for evening and night shifts; and (b) authorize the VA to implement changes in personnel management practices, as otherwise authorized by law, so as to gain information with respect to any of the matters required to be studied.

The Senate bill would also require the Administrator to submit to the House and Senate Committees on Veterans' Affairs (a) not later than one year after the date of enactment, a report describing the results of the aforementioned studies, including: (1) the determinations of the Administrator, and (2) any planned administrative actions, and any recommendations for legislation that the Administrator considers appropriate to include on the basis of the results of such study; (b) not later than 30 months after the date of enactment, the results of the first 24 months experience under the pilot program described above, including (1) the Administrator's evaluation of the effect of each management practice undertaken in the pilot program on the VA's ability to recruit and retain health-care employees, (2) information on the cost factors associated with each such management practice, and (3) any planned administrative actions, and any recommendations for legislation that the Administrator considers appropriate to include in the report on the basis of the results of such pilot program; and (c) not later than 42 months after the date of enactment, a report providing (1) updates on all information provided in the 30-month report previously described, and (2) the Administrator's final assessment of the pilot program based on 36 months of operation.

Conference agreement: The conference agreement (section 215 and 231) contains the House provisions requiring a report on the effects of new pay authorities, made applicable to sections 211 through 214 of the conference agreement, and provisions in the Senate bill requiring a VA study of and report on recruitment and retention issues and, taking into account the practices of non-federal employers, the effects that flexible employment benefit programs would have on recruitment and retention. In conducting the study, the Administrator would be required to make certain determinations, including determinations relating to pay compression and to pay differentials for evening or night work. The reports would be required to be submitted to the conferees not later than 1 year after the date of enactment.

The conferees expect the VA, in preparing the latter report on recruitment and retention issues, to review a wide range of monetary and non-monetary incentives which have the potential for enhancing recruitment and retention of health-care professionals within the VA, including the items referred to in the Senate study provisions: enhancement of employee medical benefits (including diagnostic testing, prescriptions, laboratory services, and radiology services); provision of research opportunities for nurses with advanced degrees; feasibility of establishing collaborative practice programs; and expansion of Chief Nurse responsibilities.

Health Professionals Educational Assistance Program Scholarship Program

House bill: The House bill (section 204 of H.R. 2616), would, effective October 1, 1987, amend sections 4142(a)(1) and 4144(b)(4) of title 38, relating to eligibility for the VA Health Professional Scholarship Program and the payback requirement for participants who fail to fulfill their service obligations, respectively, to expand the program to include training for all disciplines described in section 4104 of title 38, which includes a wide range of medical and allied disciplines, and to make a conforming change in the payback provision.

Senate bill: The Senate bill (section 326 of S. 9) would, replace subchapter IV of chapter 73 of title 38, relating to the Health Professional Scholarship Program, with a new chapter 76 amended to (a) expand scholarship eligibility to include training for physical therapy and any other discipline the members of which provide direct patient-care services or services incident to direct patient-care services; (b) require the Administrator, before awarding scholarships in any discipline other than medicine or nursing, to provide the Committees on Veterans' Affairs with 60 days advance notice;

(c) increase the minimum period of obligated service from 1 year for each year of scholarship aid to 2 years for each year of aid; and (d) require that priority in the award of nurse scholarships be given to nurses seeking a fourth year of baccalaureate education.

Conference agreement: The conference agreement (section 216) would (a) expand eligibility for the scholarship program to include training for all disciplines the members of which provide direct patient-care services or services incident to direct patient care (as described in section 4107(g)(1) (A) and (B) of title 38), and (b) require that priority in the award of scholarships be given to those entering their final year of training.

Tuition-Reimbursement Program

Senate bill: The Senate bill (section 326 of S. 9) would amend subchapter IV of chapter 73, relating to the VA Health Professional Scholarship Program, to establish a tuition-reimbursement program for full-time nursing personnel and, when needed, for other full-time health-care personnel, for academic courses leading to completion of any degree program in nursing or in a field related to nursing, or in other appropriate degree-granting fields for other personnel—with first priority given those with 2 years of service within the VA whose performance is superior and second priority to others with 2 years of service. A participant would be eligible to receive up to $2,000 a year, with increases indexed to Federal pay raises, and would be required to work for the VA for a period of 1 year following completion of the degree or the last course taken while a participant in the program. Participants not fulfilling their work obligation would be required to repay the United States three times the amount paid on their behalf prorated to reflect the time remaining in their agreement. In lieu of reimbursing the employee directly, the Administrator would be authorized to contract with an educational institution to provide a course or courses at VA health-care facilities for participants in the tuition reimbursement program.

House bill: No provision.

Conference agreement: The conference agreement (section 216) contains this provision with amendments (a) limiting eligibility for tuition reimbursement to full-time employees seeking a degree with a major in nursing, with special emphasis being placed on persons pursuing a course of study which will expedite an increase in the number of registered nurses in the VA, and (b) requiring participants who have not fulfilled their obligation to repay only those sums which have actually been expended, prorated to reflect the time remaining in the agreement.

The conferees urge the VA to encourage current VA employees interested in nursing as a career to apply for assistance under this tuition-reimbursement program. Employees holding nursing assistant, licensed vocational nurse, or ward secretary positions, for example, would be ideal candidates for nursing programs because they have worked in a patient-care setting and are familiar with the demands of the job. Encouraging upward mobility, by the transition of employees from lower-graded to higher-graded positions, sends a message to employees that the agency is concerned about their welfare. In addition, upward mobility programs provide the agency with a potential pool of workers oriented and known to the agency to fill vacant positions.

Depending upon the success of the tuition-reimbursement program to increase the numbers of nurses within the VA and the availability of funds, the conferees may consider expanding eligibility for the program to other shortage occupations in later legislation.

Pay Scales and Awards for Department of Medicine and Surgery Employees

House bill: The House bill (section 201 of H.R. 2616) would amend (a) subsections (a) and (b)(1) of section 4107 of title 38, setting forth pay schedules for certain VA Department of Medicine and Surgery (DM&S) employees appointed under sections 4103 and 4104(1) respectively, to update the schedules so that they conform with the rates that were payable, under Executive Order 12578 (December 31, 1986), as the time of initial House passage. This provision would also amend subsection (c)(3) of section 4107 to require that persons appointed to executive positions within the Department of Medicine and Surgery and who are not physicians and dentists be eligible for bonuses and rank awards, as described in sections 4507 and 5387 of title 5, United States Code, under the Senior Executive Service.

Senate bill: No provision.

Conference agreement: The conference agreement (section 217) contains this provision with an amendment to amend section 4107(a) and (b)(1) so as to list the positions designated in sections 4103 and 4104(1) and specify that the pay rates are prescribed by executive order pursuant to chapter 53 of title 5.

The conferees note that current rates would be set forth in a footnote at the time of each printing of the Joint Committee print of title 38.

Rates of Pay for Certain Psychologists

Senate bill: The Senate bill (section 331 of S. 9) would require the Administrator to increase the rates of pay for VA psychologists with board certification by using the "hybrid" title 5/title 38 appointment authority unless the CMD determines that more board-certified psychologists are not necessary for the VA to furnish the appropriate quality of psychological services to veterans.

House bill: No provision.

Conference agreement: No provision.

PART C—PERSONNEL ADMINISTRATION

Disciplinary Matters as to Certain Appointees

Senate bill: The Senate bill (section 323 of S. 9) would amend section 4106(g), relating to the Administrator's authority to appoint individuals to title 38/title 5 hybrid positions, to specify that all matters relative to adverse actions, disciplinary actions, and grievance procedures involving employees in such positions be resolved in accordance with provisions of title 5 as though the employees were appointed under that title.

House bill: No provision.

Conference agreement: The conference agreement (section 221) contains this provision with an amendment making title 5 provisions applicable for the resolution of such matters in the case of employees appointed to such positions who are in a probationary status.

Personnel Ceilings for Noncareer Research Personnel

House bill: The House bill (section 205 of H.R. 2616) would amend section 5010(a), relating to the operation of DM&S, to provide that temporary research personnel in the VA—defined as those personnel working in the VA in other than a career appointment for work on a research activity and who are not paid by the VA or are paid from funds appropriated to the VA to support research—shall not be counted as part of any VA personnel ceiling.

Senate bill: No provision.

Conference agreement: The conference agreement (section 222) contains this provision with an amendment to clearify that these temporary research personnel would be working within DM&S.

Authority To Waive Licensure and Internship Requirements for Certain Health-Care Personnel

House bill: The House bill (section 6 of H.R. 3449 and section 209 of H.R. 2616) would amend section 4114(d) of title 38, relating to waiver of licensure and internship requirements for DM&S employees, to authorize the CMD to (a) waive State licensure or registration requirements, as appropriate, for practical and vocational nurses or physical therapists if they are to be employed (1) either in research or academic work and are to have no direct patient-care responsibilities, or (2) in a country other than the United States if their license is in the country in which they are to work, and (b) waive the requirement for a 1-year internship for psychologists if they are to be employed in research or academic work and are to have no direct patient-care responsibilities.

Senate bill: The Senate bill (section 330 of S. 9) is substantively identical.

Conference agreement: The conference agreement (section 223) contains these provisions.

Nurse Representation on Policymaking Committees

Senate bill: The Senate bill (section 329 of S. 9) would amend section 4112 of title 38, relating to VA advisory groups, to require that Chiefs of the Nursing Service or their designees be members of all policy-making and fiscal committees at VA health-care facilities including, but not limited to, committees relating to budget, education, position management, clinical executive issues, planning, and resource allocation, and of the deans' committee or other advisory committee established pursuant to 4112(b) of title 38.

House bill: No provision.

Conference agreement: The conference agreement (section 224) contains this provision.

Disciplinary Actions Concerning Probationary Employees

House bill: The House bill (section 207 of H.R. 2616) would amend section 4106(b), relating to the probationary period of employment within DM&S, to require the Administrator to prescribe regulations relating to the review of employees appointed under section 4104(1) during the two-year probationary period and to authorize the CMD to accept, reject, or modify the recommendations of boards reviewing employees' performance during that time.

Senate bill: No provision.

Conference agreement: No provision.

Disciplinary Actions Involving Title 38 Employees

House bill: The House bill (section 203 H.R. 2616) would amend section 4110, relating to disciplinary procedures involving DM&S employees employed under title 38, to limit procedures under that section to matters involving proposed removal, suspension for more than 14 days, or demotion involving loss of grade or pay. Matters involving lesser proposed disciplinary action would be resolved in accordance with regulations prescribed by the Administrator.

Senate bill: The Senate bill (section 324 of S. 9) also would amend section 4110 to provide that procedures set forth in title 5 for the resolution of specific lesser disciplinary actions (admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade) would be used in situations involving title 38 personnel (including the use of a negotiated grievance procedure involving an appeal to an arbitrator). The Senate bill would further amend chapter 73 to add a new section 4120A, entitled "Grievances and certain disciplinary reviews," which would establish for title 38 employees a grievance-resolution process that would parallel that available to title 5 employees.

Conference agreement: No provision.

PART D—REPORTS

Report on Certain Activities Relating to Training in Geriatrics of Medical and Other Health-Professional Schools Affiliated With the Veterans' Administration

Senate bill: The Senate bill (section 317 of S. 9) would (a) set forth findings of Congress regarding the need to prepare for the impact of the aging of the U.S. population and of the Veterans' Administration's leadership role in that regard, particularly with reference to increasing the efforts by medical and other health-professional schools affiliated with the VA in training professionals to care for older patients and in research into the aging process and diseases associated with aging, and (b) require the Administrator to submit to the House and Senate Committees on Veterans' Affairs a one-time report, due not later than March 1, 1988, on VA activities to promote increased efforts by affiliated schools in training health-care professionals to care for older patients and in research into the aging process.

House bill: No provision.

Conference agreement: The conference agreement (section 232) contains this provision with amendments deleting the findings and extending the due date of the report to August 1, 1988.

The conferees reconfirm the findings from the Senate bill, especially with regard to the growing percentage of veterans over the age of 65 and the efforts of the VA to establish arrangements between VAMCs and affiliated medical and other health-care professional training institutions, and expect that the report will take these findings into account.

Report on Health-Care Resources Allocation

Senate bill: The Senate bill (section 348 of S. 9) would require the Administrator, not later than 120 days after the date of enactment, to submit to the Congress a report on the health-care resources allocated by the VA to VA facilities (including contract facilities), and the utilization of health-care resources allocated to each facility, in each State in each of fiscal years 1982 through 1986. The report would be required to include, with respect to each State and VA Medical District in each fiscal year, together with such other information as the Administrator considers appropriate:

(a) The number of VA hospital beds, domiciliary care beds, and nursing home beds.

(b) The percentage of the total amount of the funds available to the VA for health care that was allocated for obligation and expenditure by VA hospitals, outpatient clinics, domiciliary facilities, and nurse homes.

(c) With respect to the three categories of eligibility for VA inpatient care (categories A, B, and C as defined in sections 610(a)(1), 610(a)(2)(A), and 610(a)(2)(b), respectively, of title 38)—

(1) the number of veterans who received health care in VA facilities located in the State in which they reside, the number of veterans who received health care in VA facilities located in a State other than the State in which they reside, and the total cost of furnishing this care;

(2) the total cost of furnishing health care on both an outpatient basis and an inpatient basis with respect to each diagnostic category and the total cost of furnishing this care;

(3) the total number of patient encounters in which the VA furnished health care on both an outpatient and an inpatient basis with respect to each diagnostic category; and

(4) a comparison of the cost-effectiveness of the VA furnishing long-term health care to veterans in adult day-care centers located in the State and the medical district with the cost-effectiveness of the VA furnishing long-term health care to veterans in nursing homes located in each State and Medical district.

House bill: No provision.

Conference agreement: The conference agreement does not contain this provision. As noted in the discussion of the conference agreement provision relating to eligibility for outpatient services (section 101), the Committees on Veterans' Affairs have requested the Comptroller General to estimate the current and potential demand of Category A veterans for needed VA outpatient care, especially in high demand areas, including the suppressed demand for such care, and to ascertain the number of those veterans who are denied needed care and the reasons for the denials.

Additionally, the conferees note that the Senate Committee is making every effort to obtain from the VA the information that would be required by the Senate bill. If those data are not forthcoming on a timely basis, the conferees will again consider the need for legislation requiring that the information be provided.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

Specially Adapted Housing Assistance

Senate bill: The Senate bill (section 102 of S. 9) would, effective October 1, 1987, amend section 802 of title 38 to increase, from $35,500 to $40,000, the maximum amount of the specially adapted housing assistance allowance paid to certain veterans with severe service-connected disabilities impairing their mobility and to increase, from $6,000 to $6,775, the maximum amount payable for special housing adaptations to certain veterans with service-connected total blindness or the anatomical loss or the loss of use of both upper extremities.

House bill: No provision.

Conference agreement: The conference agreement (section 301) would, effective April 1, 1988, increase the maximum amount of the specially adapted housing assistance allowance to $38,000 and increase the maximum amount payable for special housing adaptations to $6,500.

Automobile Assistance Allowance

Senate bill: The Senate bill (section 103 of S. 9) would, effective October 1, 1987, amend section 1902(a) of title 38 to increase, from $5,000 to $5,530, the maximum amount of the automobile assistance allowance paid to veterans with certain severe, service-connected disabilities.

House bill: No provision.

Conference agreement: The conference agreement (section 302) would, effective April 1, 1988, increase the maximum allowance to $5,500.

Burial Benefits for Service-Connected Deaths

Senate bill: The Senate bill (section 104 of S. 9) would, effective October 1, 1987, amend section 907 of title 38 to increase, from $1,100 to $2,250, the maximum allowance paid for the funeral and burial expenses of a veteran who dies from a service-connected cause.

House bill: No provision.

Conference agreement: The conference agreement (section 303) would, effective April 1, 1988, increase the maximum allowance to $1,500.

PART B—COMPENSATION-RELATED PROVISIONS

Definition of Former Prisoner of War

House bill: The House bill (section 201 of H.R. 2945) would amend section 101(32)(B) of title 38, relating to the definition of a former prisoner of war, to expand that definition to include active-duty service members held during a period of war—as well as those held during peacetime—by foreign governments or hostile forces under circumstances which the Administrator finds to have been comparable to the circumstances generally experienced by persons held by enemy governments during periods of war.

Senate bill: The Senate bill (section 111(a) of S. 9) is substantively identical to the House bill.

Conference agreement: The conference agreement (section 311) contains this provision.

Presumption of Service Connection for Former Prisoners of War

House bill: The House bill (section 202 of H.R. 2945) would amend section 312(b) of title 38 to add peripheral neuropathy due to trauma, spastic colon, and peptic or duodenal ulcers to the list of diseases which are presumed to be service connected in the case of former prisoners of war.

Senate bill: The Senate bill (section 111(b) of S. 9) would amend section 312(b) to add peripheral neuropathy, irritable bowel syndrome, and pepic ulcer disease.

Conference agreement: The conference agreement (section 312) would add irritable bowel syndrome, peptic ulcer disease, and peripheral neuropathy (except where directly related to infectious causes) to the list of diseases presumed to be service-connected.

Presumption of Service Connection for Lupus

Senate bill: The Senate bill (section 112 of S. 9) would amend section 301(3) of title 38 to add systemic lupus erythematosus to the list of chronic diseases which are presumed to be service connected if they become manifest to a degree of 10 percent or more within 1 year from the date of the veteran's separation from the service.

House bill: No provision.

Conference agreement: The conference agreement (section 313) contains this provision.

Reinstated Entitlement for Certain Survivors

Senate bill: The Senate bill (section 113 of S. 9) would amend section 156(a)(1) of Public Law 97–377, relating to the payment of certain Social Security-equivalent benefits to certain survivors of veterans who died from service-connected causes, to restore to DIC beneficiaries receiving such benefits certain other benefits—equal to the Social Security mother's benefit for children ages 16 and 17 and the child's benefit for post-secondary students and for secondary students over age 19—which were eliminated in 1981 by Public Law 97–35 and restored by Public Law 97–377 in 1982 to Social Security recipients but not to these DIC-equivalent beneficiaries.

House bill: No provision.

Conference agreement: The conference agreement (section 315) contains this provision.

Recodification of and Marriage Requirements for DIC-Equivalent Benefits

House bill: The House bill (section 301 of H.R. 2945) would recodify provisions contained in section 410(b) of title 38, relating to dependency and indemnity compensation (DIC)-equivalent benefits for survivors of certain veterans rated totally disabled at the time of death, in a new section of title 38 and, in the new title 38 section, reduce from 2 years to 1 year for purposes of such DIC-equivalent benefits, the marriage-duration requirement and establish, as an alternative to the duration-of-marriage criterion, marriage within 15 years after service, with no time requirement if a child is born of the marriage.

Senate bill: No provision.

Conference agreement: No provision.

Scientific Review of Agent Orange Exposure Evidence

Senate bill: The Senate bill (section 115 of S. 9) would require the VA to contract, subject to the availability of appropriations, for a comprehensive review to be conducted by the National Academy of Science (NAS) or another appropriate nonprofit scientific entity, of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to Agent Orange and its component compounds and to submit a report on the review results as to the weight of evidence on this subject.

House bill: No provision.

Conference agreement: No provision.

The conferees believe that the need for such a review should be reconsidered after the results of certain ongoing studies have been reported.

Radiation-Exposed Veterans Compensation

The conferees on both sides agreed to recede from their respective provisions on condition that the Senate conferees would as quickly as possible seek to have the Senate take up H.R. 1811; that the Chairman of the Senate Committee on Veterans' Affairs would propose as a substitute amendment for the House-passed text of that bill the text of section 314 of the House amendment to the Senate amendment to the text of H.R. 2616, with cancer of the colon deleted from the list of cancers which would be presumed to be service connected; and that, if the Senate passed H.R. 1811 with such amendment, the House conferees would seek to have the House take up H.R. 1811 as soon as possible thereafter and concur in the Senate amendment. Therefore, as described below, the conference agreement does not contain any radiation-compensation provisions.

Each of the three measures—the House bill and the House amendment, through an amendment to section 312 of title 312 of title 38, relating to presumptions of service connection for certain diseases, and the Senate bill, through an amendment to title 38 to add a new chapter 14—would establish a presumption of service connection for purposes of disability and death benefits for certain diseases arising in veterans who were exposed to ionizing radiation during the atmospheric or underwater nuclear weapons test program or the American occupation of Hiroshima or Nagasaki, Japan.

Findings, Conclusions, and Statement of Purpose

Senate bill: The Senate bill (section 202) would set forth Congressional findings and conclusions regarding the nuclear test program; the state of science pertaining to ionizing radiation exposure, including the calculation (especially in light of two General Accounting Office reports) and carcinogenic effects of such exposure; the VA's history of adjudicating radiation claims; and the difficulties involved in resolving radiation-exposed veterans' claims for VA benefits. The Senate bill also would state that the purpose of the bill is to establish a process within the VA to carry out the findings and conclusions in order to provide benefits in specified circumstances.

House bill: No provision.

House amendment: No provision.

Conference agreement: No provision.

Categories of Potentially Eligible Veterans

House bill: The House bill (section 2) would establish a presumption of service connection for specified disabilities suffered by veterans who, while on active duty, were exposed to ionizing radiation as a result of onsite participation in the atmospheric detonation of a nuclear device or the American occupation of Hiroshima and Nagasaki, Japan, between August 6, 1945, and July 1, 1946.

Senate bill: The Senate bill (section 203) would make potentially eligible for certain disability and death benefits those veterans (including persons who died in the active military, naval, or air service) who, during service (i) participated onsite in the United States Government's test of a nuclear device or the American occupation of Hiroshima or Nagasaki prior to July 1, 1946, or (ii) in connection with internment as a POW in Japan had an opportunity for exposure which the Administrator finds comparable to that of a veteran in the American occupation.

House amendment: The House amendment contains the Senate provision with an amendment to add a beginning date of August 6, 1945, to define the period of the American occupation.

Conference agreement: No provision.

Specified Diseases and Degree of Disability

House bill: The House bill (section 2) would establish a presumption of service connection for the following diseases (if manifested to a degree of 10 percent or more): Leukemia (except chronic lymphatic leukemia); thyroid cancer; bronchogenic carcinoma; breast cancer; cancer of the pharynx; cancer of the esophagus; cancer of the stomach; cancer of the small intestine; cancer of the colon; and pancreatic cancer.

Senate bill: The Senate bill (section 203) would establish a presumption of service connection for the following diseases: (1) leukemia (except chronic lymphocytic leukemia) and cancer of the thyroid; and (2) if the veteran was exposed to more than one rem of radiation, cancer of the small intestine; cancer of the stomach; cancer of the liver (except where cirrhosis or hepatitis B is indicated); cancer of the bile ducts; cancer of the gallbladder; cancer of the pancreas; lymphomas (excluding Hodgkin's disease); and multiple myeloma. The Senate bill would also require that, in the case of claims based on certain other cancers—cancer of the lung; cancer of the colon; cancer of the esophagus; cancer of the rectum; cancer of the pharynx; cancer of the liver (where cirrhosis or hepatitis B is indicated); cancer of the kidney; cancer of the urinary tract; cancer of the bladder; cancer of the brain and nervous system; cancer of the salivary glands; cancer of the bones and joints; and cutaneous melanoma—if the veteran was exposed to more than 1 rem of radiation, the claims receive special consideration. Such consideration would include the VA giving conclusive weight to the Congressional findings in the bill relating to the relationship between the particular disease, its susceptibility to radiation exposure, and its link to other significant risk factors.

House amendment: The House amendment would establish a presumption of service connection for the following diseases (if manifested to a degree of 10 percent or more): leukemia (except chronic lymphocytic leukemia); cancer of the thyroid; cancer of the breast; cancer of the pharynx; cancer of the esophagus; cancer of the stomach; cancer of the small intestine; cancer of the colon; cancer of the pancreas; multiple myeloma; lymphomas (except Hodgkin's disease); cancer of the bile ducts; cancer of the gall bladder; and primary liver cancer (except if cirrhosis or hepatitis B is indicated).

Conference agreement: No provision.

Manifestation Periods

House bill: The House bill would require that all the specified diseases be manifested within 30 years after the veteran's last in-service exposure to radiation.

Senate bill: The Senate bill (section 203) would require that leukemia be manifested within 30 years after the veteran's last inservice exposure to ionizing radiation and would also require that all other specified diseases be manifested 5 or more years after the veteran's first such exposure.

House amendment: The House amendment would provide for a 30-year manifestation period for leukemia and cancer of the colon and a 40-year manifestation period for the other conditions described in the preceding item relating to the House amendment.

Conference agreement: No provision.

Special Provisions Relating to Benefits

Senate bill: The Senate bill (section 203) would provide benefits at the same rates as under chapters 11 and 13 of title 38 and would treat the diseases as service connected for all title 38 purposes except for purposes of chapters 11 and 13. The Senate bill also would provide that benefits would not be payable with respect to a disease for which compensation or DIC otherwise is payable.

House bill: No specific provisions.

House amendment: No specific provisions.

Conference agreement: No provision.

Adjustment of Exposure Estimates

Senate bill: The Senate bill (section 204) would amend section 354 of title 38, relating to consideration to be accorded in the processing of VA claims to time, place and circumstance of service, so as to establish a process for the upward adjustment of veterans' radiation exposure estimates to equal the total of (a) the highest Defense Nuclear Agency (DNA) or other exposure estimate for the veteran, based on film badge, reconstruction, or a combination of film badge and reconstruction; plus (b) for test participants, (1) 5 rems, if the DNA estimates that at least 25 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 3 rems; (2) 3 rems, if the DNA estimates that at least 25 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 1 rem; or (3) 1 rem, if the DNA estimates that at least 20 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 0.5 rem; (c) for occupation troops or former POWs in Japan found to have a comparable opportunity for exposure, 1 rem; or (d) for a veteran exposed in more than one nuclear test or in one or more tests and in the occupation of Japan, the combined total from all such exposures, adjusted as described above.

House bill: No provision.

House amendment: No provision.

Conference agreement: No provision.

Preservation of Existing Rights

Senate bill: The Senate bill (section 206) would provide that nothing in that measure would operate or be construed to prevent the granting of service connection under chapter 11 or 13 of title 38 in the case of any disease or disability from which a veteran suffers or has died that is determined on a non-presumptive basis to have been incurred in or aggravated by active-duty service.

House bill: No provision.

House amendment: No provision.

Conference agreement: No provision.

Health-Care Eligibility

Senate bill: The Senate bill (section 207) would provide for an extension, from September 30, 1989, to September 30, 1991, in the expiration of health-care eligibility for radiation-exposed veterans set forth in section 610(a)(1)(G) of title 38.

House bill: No provision.

House amendment: No provision.

Conference agreement: No provision.

Environmental Hazards Advisory Committee Reports

Senate bill: The Senate bill (section 208) would amend section 6(d)(3) of Public Law 98-542, relating to reports from the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards, to require the Council to submit its reports to the House and Senate Veterans' Affairs Committees, as well as to the full Advisory Committee and the Administrator.

House bill: No provision.

House amendment: The House amendment contains this provision.

Conference agreement: No provision.

Effective Dates and Sunset Provision

House bill: The House bill (section 3) would provide that its provisions would be effective on October 1, 1987.

Senate bill: The Senate bill (sections 210 and 211) would provide that (a) the radiation-benefits provisions would take effect on January 1, 1988, (b) such provisions would not apply with respect to claims filed after September 30, 1991, and (c) that benefits would not be payable for any period prior to enactment.

House amendment: The House amendment would provide for a May 1, 1988, effective date with no sunset provision.

Conference agreement: No provision.

PART C—EDUCATION PROVISIONS

Measurement of Laboratory Instruction

Senate bill: The Senate bill (section 121 of S. 9) would amend section 1788 (a) and (c) of title 38, relating to the standard for measuring the training time of VA students enrolled in courses with laboratory instruction, to require the VA to consider two 50-minute laboratory periods per week as the equivalent of one quarter or one semester hour or one standard class session.

House bill: No provision.

Conference agreement: The conference agreement (section 321) contains this provision.

Authority To Waive Compliance Surveys

Senate bill: The Senate bill (section 123 of S. 9) would mend section 1793 of title 38, relating to VA surveys of approved institutions to determine their compliance with applicable requirements for education programs under title 38, to give the Administrator, in the case of an institution having a demonstrated record of compliance with all of such requirements, authority to waive the requirement for an annual compliance survey of each institution that offers courses in which 300 or more eligible veterans or persons are enrolled or which do not lead to a standard college degree.

House bill: No provision.

Conference agreement: The conference agreement (section 322) contains this provision.

The conferees stress that they expect this waiver authority to be used judiciously. Only those institutons which over a period of several years have demonstrated a strong record of compliance should be exempted from the annual compliance survey requirement. Additionally, all active institutions should be surveyed at least once every four years. Enrollment of Montgomery GI Bill participants is expected to increase significantly in FY 1989 and thereafter, and periodic compliance surveys are necessary to maintain the integrity of this new educational assistance program.

Effective Date of Awards Under the Post-Vietnam Era Veterans' Education Assistance Program

Senate bill: The Senate bill (section 124 of S. 9) would amend section 3013 of title 38, relating to the VA's administration of the chapter 32 program to require that the effective dates of awards of benefits under chapter 32 of title 38, the Post-Vietnam Era Education Assistance Program, commonly known as VEAP, correspond, to the extent feasible, with the effective dates of awards for VA disability compensation.

House bill: No provision.

Conference agreement: The conference agreement (section 323) contains this provision.

Repeal of Expired Program of Accelerated Payment Loans

Senate bill: The Senate bill (section 125 of S. 9) would amend sections 1682A, 1686, 1737, and 1738 of title 38, relating to certain VA education loans, to repeal the VA's authority to make education loans in the form of accelerated payment of educational assistance allowances.

House bill: No provision.

Conference agreement: No provision.

PART D—INSURANCE PROVISIONS

Authority to Adjust Monthly Annuity Payments

Senate bill: The Senate bill (section 131 of S. 9) would amend chapter 19 of title 38, relating to veterans' insurance programs, to add two new sections (727 and 762) authorizing the Administrator from time to time to make such adjustments as the Administrator determines are administratively and actuarially sound in the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, Veterans Reopened Insurance, or United States Government Life Insurance who is receiving payments under a life annuity settlement option.

House bill: No provision.

Conference agreement: The conference agreement (section 331) contains this provision.

Exemptions From State Taxation

Senate bill: The Senate bill (section 132 of S. 9) would amend section 769 of title 38, relating to premiums for Servicemen's Group Life Insurance (SGLI), to prohibit the States from imposing any taxes on premiums paid under a SGLI or Veterans' Group Life Insurance policy.

House bill: No provision.

Conference agreement: The conference agreement (section 332) contains this provision.

Direct Administration of Veterans' Mortgage Life Insurance

Senate bill: The Senate bill (section 133 of S. 9) would amend section 806 of title 38, relating to Veterans' Mortgage Life Insurance (VMLI) (for veterans who are eligible for VA specially adapted housing assistance), to authorize the Administrator to convert the VMLI program from one conducted through a contract with a commercial insurance company acting as the insurer to one administered directly by the VA and to provide continuing authority for the VA to administer the program directly or by contract.

House bill: No provision.

Conference agreement: The conference agreement (section 333) contains this provision with an amendment providing for direct administration of the program by the VA with no contracting option.

PART E—MEMORIAL AFFAIRS

National Cemetery Grave Markers

House bill: The House bill (section 5 of H.R. 2957) would amend subsection (c) of section 1004 of title 38, which generally requires the use of upright grave markers in national cemeteries, to permit the use of flat markers in an addition to the Wood National Cemetery at Milwaukee, Wisconsin, which was developed on land that was formerly part of the grounds of the adjacent VA medical center and in the Indiantown Gap, Pennsylvania, National Cemetery.

Senate bill: The Senate bill (section 402 of S. 9) would amend section 1004(c) to (a) permit the Administrator, upon the recommendation of the Chief Medical Director, to waive the requirement for upright grave markers in a VA national cemetery if the Administrator determines that the use of upright markers at that cemetery would have a detrimental effect on the health of veterans receiving care at a nearby health-care facility, and (b) require the use of flat markers at the national cemeteries in Riverside, California, Augusta, Michigan, and Bourne, Massachusetts, and at the proposed national cemetery in Northern California.

Conference agreement: The conference agreement (section 341) permits the Administrator to waive the requirement for upright markers in the case of cemeteries located on the grounds of or adjacent to a VA medical center and at each of the specified cemeteries for which either the House or Senate provisions would permit or require the use of flat markers.

Grave Markers for Cremated Remains

House bill: The House bill (section 4 of H.R. 2957) would amend section 1004(c)(2) of title 38, generally requiring the use of upright grave markers in national cemeteries, to permit the use of flat markers for cremated remains.

Senate bill: No provision.

Conference agreement: The conference agreement (section 341) contains this provision.

Contributions for Certain Projects

House bill: The House bill (section 2 of H.R. 2957) would amend section 1004(f) of title 38, relating to the transfer of national cemetery approach roads to state and local governments, to authorize the VA, to the extent appropriations are available, to make contributions to local authorities for the construction of traffic controls, road improvements, or other devices adjacent to national cemeteries if the Administrator determines the contribution is necessary for safe ingress or egress.

Senate bill: No provision.

Conference agreement: The conference agreement (section 342) contains this provision with an amendment to require that the contribution be "essential to ensure", rather than "necessary for", safe ingress or egress.

The conferees expect the VA to continue to make every effort to have local authorities make any needed improvements without VA contributions.

State Veterans' Cemetery Construction Grants

House bill: The House bill (section 1 of H.R. 2957) would repeal clause (1) of section 1008(b) of title 38, which provides that no State may receive more than 20 percent of the total amount appropriated in a fiscal year for grants to States to aid in establishing, expanding, or improving state veterans' cemeteries.

Senate bill: No provision.

Conference agreement: The conference agreement (section 343) contains this provision.

Grave Liners

House bill: The House bill (section 3 of H.R. 2957) would amend section 906 of title 38, relating to headstones and markers for veterans' graves, to authorize the VA, in accordance with specifications and procedures approved by the Administrator, to provide grave liners for the interment of casketed remains in VA national cemeteries and the Arlington National Cemetery.

Senate bill: No provision.

Conference agreement: The conference agreement (section 344) contains this provision with an amendment under which the Secretary of the Army, rather than the Administrator, would be authorized to provide liners for interments at the Arlington National Cemetery and the VA and the Army would each adopt its own specifications.

American Battle Monuments Commission Foreign Currency Fluctuations

House bill: The House bill (section 6 of H.R. 2957) would amend the Act of March 4, 1923 (36 U.S.C. 121), creating the American Battle Monuments Commission (ABMC), to establish in the Treasury, and authorize the appropriation of $3 million to, an account, to be known as the "Foreign Currency Fluctuations, American Battle Monuments Commission", to provide funding to eliminate losses resulting from fluctuations in currency exchange rates of foreign currencies that occur after an ABMC budget request is submitted to the Congress.

Senate bill: No provision.

Conference agreement: The conference agreement (section 345) contains this provision.

Transfer of the Arizona State Cemetery to the Veterans' Administration

Senate bill: The Senate bill (section 406 of S. 9) would (a) authorize and direct the VA to accept from the State of Arizona, on terms and conditions specified by the VA, title to the Arizona State Veterans Memorial Cemetery, with the cemetery thereafter being part of the National Cemetery System; (b) in each of fiscal years 1988 and 1989 limit the amount of appropriated funds that the VA may spend for the operation and maintenance of the cemetery to the amount it would have expended for the payment of plot allowances to the State for the burial of deceased veterans, except that this spending cap could be exceeded to the extent necessary for the repair of damage from flood, fire, or other natural disaster; (c) provide for the VA to use funds available for such plot allowances (*i.e.*, funds in the VA's compensation and pension account) for, and authorize the VA to accept gifts for, the operation and maintenance of the cemetery; and (d) permit the continuing use of flat markers for internments in this cemetery when it becomes a National Cemetery.

House bill: No provision.

House amendment: No provision.

Conference agreement: The conference agreement (section 346) contains these provisions with amendments to require the Administrator, not later than 6 months after enactment, to enter into an agreement with the State under which title would be conveyed and the State would be obligated to provide any supplementary funding necessary to maintain the current level of operation and maintenance; to extend the spending cap through the first 3 years after that agreement is signed; and to delete the exception for spending to repair damage from a natural disaster.

The conferees note that, in order to overcome objections by the House conferees to this provision, the Arizona Congressional delegation has made a commitment to support providing 16 acres of land adjacent to the Phoenix VA Medical Center to accommodate a planned expansion of the medical center and the construction of a State veterans' home.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

Integrity of Contracting Out Process at Health-Care Facilities

House bill: The House bill (section 9 of H.R. 3449) would amend section 5010 (c) of title 38, relating to the contracting out of functions at VA health-care facilities, to require that no functions be contracted out unless the Administrator receives responsive bids to perform the function from at least two responsible, financially autonomous bidders.

Senate bill: No provision.

Conference agreement: The conference agreement (section 401) contains this provision.

Standardization of Medical and Pharmaceutical Items

Senate bill: The Senate bill (section 345 of S. 9) would require the Administrator, not later than the beginning of the third fiscal year beginning after the date of enactment, to develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items produced by the VA. The plan would be required to provide for the procurement of generic pharmaceutical items where such procurement is more cost-effective than procurement of a name-brand pharmaceutical item, except where the VA's Chief Medical Director, after consultation with the Food and Drug Administration, determines that an equivalent generic item is not available or that the availability of a brand-name item is necessary in the interests of effective patient care.

House bill: No provision.

Conference agreement: The conference agreement (section 402) contains this provision with an amendment requiring that the plan be implemented by October 1, 1989.

The conferees note that nothing in the conference agreement would permit the VA to procure pharmaceutical items not approved for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act, or a biological product not licensed under the Public Health Service Act, or any item not otherwise permitted to be sold under Federal law. The conferees also note that, under the conference agreement, if the VA's Chief Medical Director (CMD) determines that procurement of a pharmaceutical item not in the VA standardization plan is necessary in the interests of effective patient care, the CMD would have authority to permit a VA medical center director, in accordance with regulations prescribed by the CMD, to procure the pharmaceutical item under a local contract where the center director determined that such procurement was necessary for the effective furnishing of health-care services. However, the conferees intend that this authority be exercised in a way that would be consistent with the intent of this legislation with regard to achieving a more cost-effective VA procurement program.

Requirements for the Procurement of Medical and Pharmaceutical Items

Senate bill: The Senate bill (section 346 of S. 9) would amend subchapter II of chapter 81, relating to VA procurement and supply activities, to add a new section 5025 requiring the VA to procure medical and pharmaceutical items only under national contracts except where local purchase is necessary because (a) the item is not available under a national contract, (b) the item is needed for the effective furnishing of health-care services or the conduct of research or education at a VA medical center as determined by the director of the center in accordance with regulations prescribed by the CMD, or (c) a need for an emergency procurement has arisen. New section 5025 would also provide that, except in the case of emergency need—when the medical center would be permitted to purchase no greater amount than is reasonably necessary to meet the emergency need until resupply could be achieved—(a) not more than 20 percent of all medical and pharmaceutical items procured by the VA in any fiscal year would be permitted to be procured under local contracts, (b) that percentage may be increased to not more than 30 percent if it is determined by the President (or, upon delegation, by the Director of the Office of Management and Budget), based upon the VA's experience during the preceding 2 years, that a higher percentage is necessary for the effective furnishing of health-care services, and (c) to the maximum extent feasible, local contracts be awarded to dealers or manufacturers regularly engaged in the wholesale supply of the items involved.

Under the new section 5025, each medical center would be required to report to the Administrator on December 1 of each fiscal year (beginning on December 1, 1988) the percentage of all items procured through local contracts during the previous fiscal year and—for those medical centers at which purchases under local contracts exceeded 20 percent of the total cost of all items procured during that fiscal year—provide a list indicating the quantity and cost of each item procured under a local contract and an explanation of the reasons for exceeding the 20 percent level. In addition, the Administrator would be required to submit to the Committees on Veterans' Affairs not later than February 1 of each year (beginning February 1, 1989) a report on the VA's experience in the procurement of medical and pharmaceutical items during the previous fiscal year, including a summary of the quantity and costs of items procured under local contracts.

House Bill: No provision.

Conference agreement: The conference agreement (section 403) contains this provision with amendments which would (a) add a fourth exception—demonstrated cost-effectiveness on an item-by-item basis—to the three exceptions in the Senate bill to the prohibition against the procurement of medical and pharmaceutical items (referred to as "health-care items" in the conference agreement) under local contracts, (b) postpone until one year after the date of enactment the effective date of that prohibition, (c) give the Administrator, rather than the President, the discretionary authority to increase from 20 percent to 30 percent the percentage of health-care items which may be procured by the VA in any fiscal year under local contracts, (c) require each medical center to report to the Administrator on December 1 of each fiscal year (beginning on December 1, 1988) the percentage of all items procured through local contracts during the previous fiscal year, (d) requires each medical center at which purchases under local contracts exceeded 20 percent of the total cost of all items procured during that fiscal year to include in its report a list indicating the quantity and cost of each item procured under a local contract and an explanation of the reasons for exceeding the 20-percent level, (e) exclude Federal Supply Classification (FSC) Group 89 (food items) from the description of the term "health-care item", (f) delete, in the description of the term "health-care item" the reference to the "Federal Supply Catalog", and (g) delete the exclusion of "surgical items."

Multi-Year Procurement of Certain Medical Items

Senate bill: The Senate bill (section 347 of S. 9) would amend section 213 of title 38, relating to VA contracts, to authorize the VA to use multi-year health-care supplies and services procurement contracts except where such contracts would interfere with the maximum effective procurement of generic drugs. Specifically, the Administrator would be authorized to enter into a multi-year contract if the Administrator determines that (a) appropriations are available and adequate for obligations necessary to provide for either (1) the total payments required during the full term of the contract, or (2) the total payments during the fiscal year in which the contract is entered into plus cancellation charges payable under the contract; (b) the contract is in the best interest of the government in that the contract would reduce costs, achieve economies in contract administration, increase quality of service from the contractor, or encourage competition; (c) there is an ongoing need for the particular items or services being procured and no substantial likelihood of changes in the need for the supply and the specifications are expected to remain relatively stable; (d) the risks associated with the contractor's ability to comply with the contract are not excessive; (e) use of multi-year contract will not inhibit the capability of small businesses to compete; and (f) in the case of the procurement of a pharmaceutical item for which a patent has expired less than 4 years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract. Such a multi-year contract would be required to provide (1) that the government's obligation under the contract is contingent on the availabilty of financial resources, and (2) that there be payment of reasonable concellation charges to compensate the contractor if the contract is cancelled due to lack of such resources.

House bill: No provision.

Conference agreement: The conference agreement (section 404) contains this provision with amendments to (1) delete language clarifying that the new provisions are not to be construed to supersede any other law authorizing multiyear contracts; (2) substitute language providing that the new provisions are not to be construed so as to restrict the exercise of the right to terminate for convenience a contract under such a law, and (3) delete language describing examples of the types of costs considered to be "nonrecurring, unrecovered costs", the payment of which are to be provided for in a provision which would be required to be included in a multiyear contract.

The conferees agree that the costs—i.e., plant or equipment relocation, plant rearrangement, special tooling, special test equipment, preproduction engineering, and specialized work force training—are appropriate, but do not consider it necessary to identify them in the statute.

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

Sequestration Rules Applicable To Veterans' Programs

House bill: The House bill (section 305 of H.R. 2616), would—

(a) provide for restoring to the Canteen Service Revolving Fund (CSRF) the FY 1986 funds sequestered from the CSRF under the Gramm-Rudman-Hollings (GRH) law (Public Law 99-177; 2 U.S.C. et seq.) by making retroactively effective to FY 1986 the existing sequestration exemption for the CSRF in section 113 (b)(2)(B) of title 38; and

(b) require the Secretary of the Treasury to take the actions necessary to implement the change in the effective date and not later than 60 days after the date of enactment submit to the Committee a report on those actions.

Senate bill: The Senate bill (sections 313 and 114 of S. 9) would—

(a) provide for restoring to the VA's Special Therapeutic and Rehabilitation Activities fund (STRAF)—in the same manner as the House bill would provide for restoration to the CSRF—FY 1986 funds sequestered from the STRAF under the GRH law; and

(b) effective November 19, 1987, amend section 113(a) (4) and (5) of title 38, under which the program of rehabilitation services and assistance for certain service-disabled veterans under chapter 31 of title 38 and the program of educational assistance for dependents or survivors of certain service-disabled veterans or of deceased servicemembers under chapter 35 were made exempt from sequestration for FY 1987 only, to exempt both programs permanently.

Conference agreement: The conference agreement (section 411) contains these provisions.

Child-Care Services at Veterans' Administration Facilities

House bill: The House bill (section 8 of H.R. 3449) would amend chapter 75 of title 38, relating to the Veterans' Canteen Service (VCS), to—

(a) authorize the operation of child-care centers at VA medical centers through the VCS and require that such services be available for children of VA employees;

(b) require the Administrator to provide to the VCS for the operation of child-care centers, at no charge, space in existing

VA facilities, support services (including custodial services), and utilities;

(c) require that any other services provided to the VCS for the operation of the centers be provided on a reimbursable basis;

(d) require that employees assigned to work in the centers be selected based upon their suitability and fitness for such duties; and

(e) authorize the establishment of reasonable charges for child-care services and require such charges to be sufficient to cover all costs of operation (other than the costs of those services provided by the VA without charge).

Senate bill: The Senate bill (section 333 of S. 9) would amend section 223 of title 38, relating to services for VA employees, to—

(a) require the Administrator, to the extent the Administrator determines that it is in the best interest of the VA and practicable to do so based on the demand for such care, to provide on-site child-care centers in VA facilities for children of VA employees and, to the extent space is available, of other Federal employees and non-Federal employees;

(b) require the Administrator, in connection with the establishment of the centers, to provide, at no or nominal cost, space in existing VA facilities, utilities, and other amenities necessary for the health and safety of children;

(c) authorize the Administrator, on a reimbursable basis, to convert space for such centers and to furnish other items necessary for the operation of the centers, including furniture, office machines and equipment, and telephone service, except that basic telephone service and surplus furniture and equipment may be furnished at no charge;

(d) require VA regulations to be prescribed to—

(1) provide for the participation of parents of children in a child-care center in the establishment of policies governing the operation of the center and oversight of the operation of the center, either directly or through parent-advisory committees or both;

(2) require the development and utilization of a process for screening prospective employees at the centers for fitness and suitability;

(3) authorize parents to conduct fundraising activities in order to help defray the operating costs of the centers;

(4) require the establishment of a schedule of charges for the provision of child-care services for each center, including a sliding-scale schedule based on parents' income and assets, sufficient to cover the center's operating expenses; and

(5) require that centers comply with all State and local laws, ordinances, and regulations relating to the operation of child-care centers;

(e) authorize the Administrator (1) to enter into a contract for the operation of a center with (A) a non-profit organization comprised of parents whose children are cared for at the center, or (B) a non-profit organization which has demonstrated expertise in the operation of child-care centers and has an advisory committee comprised of parents of children being cared for in the centers, or (2) to provide for the direct management of the centers by the VCS;

(f) authorize the Administrator to carry out this child-care services program through the VCS or otherwise; and

(g) specify that, for the purposes of the child-care services program, a parent advisory committee is to be comprised of parents of children in the center and to be fully involved in the establishment of policies to govern the operation of the center and the oversight of the implementation of its policies.

Conference agreement: The conference agreement (section 412) contains provisions derived from both the House and Senate provisions so as to—

(a) amend chapter 75 of title 38 governing the Veterans' Canteen Service,

(b) require the Administrator, to the extent the Administrator determines that it is in the best interest of the VA and practicable to do so based on the demand for such care, to provide on-site child-care centers in VA facilities for children of VA employees, and, to the extent space is available, for children of employees of affiliated institutions and VA research corporations established under subchapter VI of chapter 73 of title 38 (as added by section 204 of the conference agreement);

(c) require that child-care programs be carried out by the VCS with one person therein designated as the coordinator for the program;

(d) in connection with the establishment and operation of the centers—

(1) require the Administrator to provide space in existing VA facilities, utilities, and other amenities necessary for the health and safety of children at no or nominal cost;

(2) authorize the Administrator to convert space for such centers on a reimbursable basis, and to furnish, also on a reimbursable basis, other items necessary for the operation of such centers, including furniture, office machines and equipment, and telephone service, except that basic telephone service and surplus furniture and equipment may be furnished at no charge;

(3) provide for the participation of parents of children in a child-care center in the establishment of policies governing the operation of the center and in oversight of the operation of the center, either directly or through parent-advisory committees or both;

(4) require the development and utilization of a process for screening prospective employees at the centers for fitness and suitability; and

(5) require compliance with State and local laws, ordinances, and regulations specifically relating to health, safety, and child care;

(e) require that (1) the Canteen Service establish for each center a schedule of charges subject to the Administrator's approval, (2) in the case of a center operated by the service, that the charges be sufficient to cover the center's operating expenses, and (3) in the case of a center operated by a for-profit organization, that the charges be established to take into account the value of space, utilities, and other services provided and the cost of child-care services in the community; and

(f) require the Administrator to prescribe regulations to carry out these provisions.

Although the express authority to permit parents to conduct fundraising activities to help defray the operating costs of the child-care centers is not included as part of the conference agreement, the conferees recognize the value of such activities in keeping fees affordable.

The conferees intend the phrase "to the extent space is available" in the description in item (b) of the conference agreement to refer to the acceptance of non-VA employee children only to the extent necessary to make it economically feasible to operate the center. When planning for the size of the center, such other children should be taken into account only to that extent.

Advisory Committee on Native-American Veterans

Senate bill: The Senate bill (section 404 of S. 9) would amend section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272), relating to the Advisory Committee on Native-American Veterans. The Senate bill would add a representative to the Advisory Committee, require a third report (due February 1, 1989), and extend the term of the Advisory Committee until 90 days after the third report is submitted to the Administrator.

House bill: No provision.

Conference agreement: The conference agreement (section 413) contains this provision with an amendment which would extend the term of the Advisory Committee until 90 days after the report is submitted to the Congress.

Exemption of Canteen Service From Personnel Ceilings

House bill: The House bill (section 304 of H.R. 2616) would amend chapter 75 of title 38, relating to the Canteen Service, to provide that persons employed by the Canteen Service not be considered to be VA employees for purposes of any personnel ceiling which may otherwise be applied to VA employees by the President.

Senate bill: No provision.

Conference agreement: The conference agreement (section 414) contains this provision.

Pilot Program on Hospital Management Efficiency

House bill: The House bill (section 306 of H.R. 2616) would require the VA to conduct a pilot program to determine the feasibility of operating VA medical centers free of certain statutory and regulatory constraints. Specifically, the Administrator would be required to designate five VA medical centers at which the center's director, pursuant to the Administrator's authorization could waive or alter any laws and regulations applicable to the center's management and administration to determine the effect of the waivers and alterations on the efficiency and economy of the center. The authorization for this program would expire on September 30, 1990.

Senate bill: No provision.

Conference agreement: No provision.

Consolidation of Veterans' Administration Insurance Centers

House bill: The House bill (section 302 of H.R. 2945) would (a) require the Adminstrator to continue to maintain and operate separately the VA insurance centers located in St. Paul, Minnesota, and Philadelphia, Pennsylvania, and (b) prohibit the Administrator from taking any action to consolidate the centers as proposed in a reorganization plan submitted to the Congress on February 5, 1986, under section 210(b)(2)(A) of title 38.

Senate bill: No provision.

Conference agreement: No provision.

The conferees note that questions regarding the appropriateness and cost-effectiveness of the consolidation have been raised by the General Accounting Office (GAO) in its September 16, 1987, report entitled "Veterans' Administration: Proposed Consolidation of Philadelphia and St. Paul Insurance Centers", and by the Minnesota Congressional delegation. In the conferees' view, these questions should be resolved before any action is taken to implement the planned consolidation. The conferees also note that the Continuing Resolution for Fiscal Year 1988 (Public Law 100–202) prohibits the use of appropriated funds for consolidation of the centers in fiscal year 1988. In view of these questions, the conferees direct that, before proceeding with such consolidation effort after fiscal year 1988, the VA submit to the Veterans' Affairs Committees a report demonstrating the justification for, and cost-effectiveness of, such a transfer both generally and in light of the GAO's findings, and that the VA include in the report a description of how the telephone-inquiry needs of those persons in the Western time zones currently served by the St. Paul center would be met.

Technical Amendments to Chapter 37

House bill: Section 16 of H.R. 2672 as passed by the House of Representatives on August 3, 1987, contained provisions making technical amendments in subchapters I, II, and III of chapter 37 of title 38, relating to VA home loan guaranties, consolidating in one section (section 1802) all provisions relating to eligibility for VA home loan guaranties and to reorganize subchapters II and III, and clarifying that the amendments are to have no effect on any veteran's benefits under chapter 37.

Senate bill: No provision.

Conference agreement: The conference agreement (section 415) contains these provisions with amendments and with further technical amendments in light of chapter 37 amendments enacted in Public Law 100–198.

The conferees stress that these purely technical amendments do not signify the conferees or the Congress' review, assessment, or reaffirmation any of the policies expressed in or underlying the provisions affected, including the basic eligibility requirements.

Exclusion of Casualty Reimbursements From Pension Income Computations

Senate bill: The Senate bill (section 141 of S. 9) would amend section 415(f)(1)(i) of title 38, relating to exclusion of fire insurance proceeds from income computation for purposes of pension and parents' DIC reimbursement, to exclude for such purposes reimbursement—based on market or reasonable replacement value—from any source for property loss from any cause.

House bill: No provision.

Conference agreement: No provision.

The conferees' note their view that the VA's General Counsel has interpreted the term "fire insurance proceeds" as used in section 415(f)(1)(I) broadly enough to include also insurance proceeds for losses from causes other than fire. The conferees urge the VA to issue regulations consistent with the broad interpretation of current law set forth in the September 10, 1984, opinion of the General Counsel to the Chief Benefits Director.

Transportation of Plutonium

Senate bill: The Senate bill (section 209 of S. 9) would prohibit air transport of plutonium from one foreign nation to another through the air space of the United States unless (1) the possible routes for shipment (including landing sites and refueling points) have been evaluated in accordance with the National Environmental Policy Act (Public Law 91-190), and (2) the Nuclear Regulatory Commission (NRC) has certified to Congress that the container is safe. The NRC's safety determination would be required to be based upon actual aircraft crash and container drop tests. This provisions would not apply to plutonium contained in a medical device designed for individual human application.

House bill: No provision.

Conference agreement: No provision.

The conferees' note that a substantially similar provision was incorporated in section 5062 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203.

PART C—REAL PROPERTY

Limitation on Transfer of Real Property to Other Agencies

House bill: The House bill (section 302 of H.R. 2616) would amend section 5022(a) of title 38, relating to transactions involving certain VA real property, to (a) prohibit the VA from transferring to another Federal agency or to a State (or political subdivision) any interest in real property owned by the United States and administered by the VA which has an estimated value in excess of $50,000 unless the transfer is specifically authorized by law, and (b) require that the proceeds from the sale of any such property be deposited in the VA's Parking Garage Revolving Fund.

Senate bill: The Senate bill (section 401 of S. 9) would prohibit the Administrator from taking any action to declare as excess to the needs of the VA, or otherwise take any action to dispose of, certain land and improvements at the Veterans' Administration Medical Center in West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center in Sepulveda, California (consisting of approximately 46 acres).

Conference agreement: The conference agreement (section 421) contains these provisions with a substitute amendment to (1) prohibit the Administrator from taking any action in a fiscal year to declare as excess to the VA's needs any interest in real property owned by the United States and administered by the VA unless the Administrator has, at the time of the President's budget submission to the Congress, provided the Veterans' Affairs Committees with a proposal to do so, (2) require that the sale of any such property be at fair market value, and (3) require that the revenues generated from the sale of such property be deposited in a new Nursing Home Construction Fund, which, under the conference agreement, would be established under a new section 5016 of title 38.

Congressional Procedures for Approval of Medical Facility Acquisition and Construction

House bill: The House bill (section 5 of H.R. 3449) would amend section 5004(a) of title 38, relating to the authorization by the Committees on Veterans' Affairs of major VA medical-facility construction and acquisition projects (those costing more than $2 million) and leases (those with an average annual rental over $500,000), to provide that no appropriation may be made for a major medical-facility project or lease unless the Senate and House Veterans' Affairs Committees each has first adopted a resolution approving such a project and its cost. Under current law, after the Committees have adopted resolutions with identical texts approving major medical-facility projects it is not in order in either body to consider a measure making an appropriation for that or the next fiscal year for such a project or lease if (a) the project is not approved in the resolution, or (b) the appropriations measure does not specify the project or the amount proposed for it or the amount proposed exceeds the approved amount. Current law also provides that no appropriation may be made for a major medical-facility lease unless the Committees have adopted resolutions approving it and setting forth its estimated costs.

Senate bill: The Senate bill (section 344 of S. 9) would amend section 5004 to replace the existing Veterans' Affairs Committees approval-resolutions process for VA major medical construction and acquisition projects with a legislative authorization process under which it would not be in order in either body to consider a bill, resolution, or amendment appropriating funds for a major VA medical-facility project or lease unless the amount for the project or lease is specified in the appropriations measure and does not exceed the amount authorized for it by a provision of law enacted in legislation reported by the Veterans' Affairs Committees.

The senate bill would further amend section 5004 to replace the existing prohibition against increasing the contract amount by more than 10 percent of the amount specified in the Committees' resolutions with a requirement that the Administrator gave the Committees 30 days' advance notice whenever the cost of a project would exceed by more than 10 percent the amount specified in the authorizing legislation.

Conference agreement: The conference agreement (section 422) contains the House provision with an amendment to permit a point of order to be raised in either body against a bill making an appropriation for a major VA medical-facility project or lease unless it has been approved by a resolution of the Veterans' Affairs Committee of that body and does not exceed the amount specified for it in the resolution. The conference agreement also contains the Senate provision relating to advance notice of contract increases with an amendment to require the notice when the project cost would exceed the amount specified in a Committee's resolution rather than in an authorizing law.

Use of Former VA Hospital in Minot, North Dakota

Senate bill: The Senate bill (section 403 of S. 9) would require the VA, upon certain conditions being met, to enter into an agreement with the United States Department of Labor (DOL) for DOL's use as a Job Corps Center for nominal consideration, of 20.6 acres and the buildings thereon located in Minot, North Dakota, where the VA formerly operated a hospital. The conditions for the lease, which would be renewable for nominal consideration for successive 10-year periods at the request of the Secretary of Labor, would be that (a) sufficient funds must be appropriated to the Department of Labor in fiscal year 1988 to establish a Job Corps Center in North Dakota, (b) the property must be selected by the Labor Department for the establishment of a Job Corps Center, and (c) the Department must agree to use the property for a Job Corps Center for the duration of the lease.

House bill: No provision.

Conference agreement: The conference agreement (section 423) contains this provision with amendments to (a) modify the conditions relating to appropriations so as to require that they be made by the end of fiscal year 1989, (b) nullify the action of the Administrator on September 30, 1987, in transferring the property to the General Services Administration, (c) prohibit the VA from expending any funds for the repair, improvement, or alteration of the property in connection with DOL use thereof.

Naming of Veterans' Administration Medical Center in Shreveport, Louisiana

House bill: The House bill (section 308 of H.R. 2616 would designate the Veterans' Administration Medical Center in Shreveport, Louisiana, the "Overton Brooks Veterans' Administration Medical Center".

Senate bill: The Senate bill (section 407) is substantively identical to the House bill.

Conference agreement: The conference agreement (section 424) contains this provision.

Outpatient Clinic, New Jersey

House bill: The House bill (section 307 of H.R. 2616) would require the VA to establish and operate an outpatient clinic in central or southern New Jersey and to begin the site location process for this clinic no later than 30 days after the date of enactment.

Senate bill: No provision.

Conference agreement: No provision.

The conferees note that funding for the lease for such a clinic was proposed in the President's fiscal year 1988 budget and provided in the Continuing Resolution for Fiscal Year 1988 (Public Law 100-202) and that VA action to establish the clinic is underway.

Fair Market Opportunties in Veterans' Administration Construction Projects

Senate bill: The Senate bill (section 408 of S. 9) would prohibit the use of funds appropriated pursuant to an authorization contained in the bill to carry out any construction project of the Veterans' Administration which uses any architectural, engineering, or construction service of a foreign country during any period in which such foreign country is identified by the United States Trade Representative (USTR) as denying fair and equitable market opportunities for such services of the United States in procurement or bidding for certain public works projects. Not later than 30 days after the date on which each report is submitted under section 181(b) of the Trade Act of 1974, the USTR would be required to determine as to each foreign country whether it denies fair and equitable market opportunities for architectural, engineering, or construction services of the United States in procurement or bidding for construction projects that cost more than $500,000 and are funded, in whole or in part, by the government of the foreign country or by an entity controlled by such foreign country. In making this determination, the USTR would be required to take into account information obtained in preparing the report submitted under section 181(b) and such other information the USTR considers relevant. Any country listed would remain on the list until the USTR determined that it does permit fair and equitable market opportunities in procurement and bidding.

The Administrator could waive the restrictions imposed by this section with respect to the use of a service in a project if the Administrator determines that (1) the waiver is necessary in the public interest; (2) alternative services are unavailable or of insufficient quality; or (3) exclusion of the service would increase the overall cost of the project by more than 20 percent.

House bill: No provision.

Conference agreement: No provision.

The conferees note that a similar provision generally applicable to all building or public work construction projects undertaken with funds appropriated for FY 1988 was incorporated in section 109 of the FY 1988 Continuing Resolution, Public Law 100-202.

APPENDIX

CHANGES IN EXISTING LAW MADE BY THE CONFERENCE AGREEMENT ON H.R. 2616

Changes in existing law made by the conference agreement are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * * * *

PART I—GENERAL PROVISIONS

* * * * * * *

CHAPTER 1—GENERAL

Sec.
101. Definitions.
102. Dependent parents.
103. Special provisions relating to marriages.
104. Approval of educational institutions.
105. Line of duty and misconduct.
106. Certain service deemed to be active service.
107. Certain service deemed not to be active service.
108. Seven-year absence presumption of death.
109. Benefits for discharged members of allied forces.
110. Preservation of disability ratings.
111. [Travel expenses.] *Payments or allowances for beneficiary travel.*
112. Presidential memorial certificate program.
113. Treatment of certain programs under sequestration procedures.
114. *Multiyear procurement for certain medical items.*

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * * * *

(28) The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require [skilled] nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. [The term includes intensive care where the nursing service is under the supervision of a registered professional nurse.] *Such term includes services fur-*

nished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.

* * * * * * *

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, **[**during a period other than a period of war in which such person was held**]** under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

* * * * * * *

§ 111. **[**Travel expenses**]** *Payments or allowances for beneficiary travel*

(a) * * *

* * * * * * *

(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

(B) A veteran with a service-connected disability rated at 30 percent or more.

(C) A veteran receiving pension under section 521 of this title.

(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care.

Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

(B) In the case of travel by a person to or from the Veterans' Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

(c)(1) Except as otherwise provided in this subsection, the Administrator, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

(2) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Veterans' Administration facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

(4) The Administrator may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this subparagraph.

(5) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts may have been increased or decreased pursuant to this paragraph before such date.

[(b)] *(d)* Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

(1) [the] *The* mileage allowance authorized by subsection (a) [hereof;] *of this section.*

(2) [actual] *Actual* local travel [expenses;] *expenses.*

(3) [the] *The* expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

[(c)] *(e)* When any person entitled to mileage under this section requires an attendant (other than an employee of the Veterans' Administration) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

[(d)] *(f)* The Administrator may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Veterans' Administration facility.

[(e)] *(g)*(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

(2) In no event shall payment be provided under this section—

(A) unless the person claiming reimbursement has been determined, pursuant to regulations which the Administrator shall prescribe, to be unable to defray the expenses of such travel (except with respect to a person receiving benefits for or in connection with a service-connected disability under this title, a veteran receiving or eligible to receive pension under section 521 of this title, or a person whose annual income, determined in accordance with section 503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 521 of this title);

(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

(C) in excess of the actual expense incurred by such person as certified in writing by such person.

* * * * * * *

(4) Before determining rates *or adjusting amounts* under this section and not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates *and amounts* the Administrator proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.

* * * * * * *

(h) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.

* * * * * * *

§ 113. Treatment of certain programs under sequestration procedures

(a) The following programs shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) Benefits under chapter 21 of this title, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities.

(2) Benefits under section 907 of this title, relating to burial benefits for veterans who die as the result of a service-connected disability.

(3) Benefits under chapter 39 of this title, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

(4) Assistance and services under chapter 31 of this title, relating to training and rehabilitation for certain veterans with service-connected [disabilities (but only with respect to fiscal year 1987).] *disabilities.*

(5) Benefits under chapter 35 of this title, relating to educational assistance for survivors and dependents of certain veterans with service-connected [disabilities (but only with respect to fiscal year 1987).] *disabilities.*

(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans.

* * * * * * *

(d) In computing the amount of new budget authority by which a budget account of the Veterans' Administration is to be reduced for a fiscal year under a [joint] report of the [Directors] *Director* of the Office of Management and [Budget and the Congressional Budget Office,] *Budget,* or under an order of the President under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the base from which the amount of the reduction for such account is determined shall be established without regard to any amount of new budget authority in such account (determined under section 251(a)(6) of such Act) for any of the programs listed in subsection (a) of this section.

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§ 114. Multiyear procurement for certain medical items

(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

(A) reducing costs;

(B) achieving economies in contract administration or in any other Veterans' Administration activities;

(C) increasing quality of performance by or service from the contractors; or

(D) encouraging effective competition.

(3) During the proposed contract period—

(A) there will be a continuing or recurring need for the supplies or services being procured;

(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

(C) the specifications for the supplies or services are expected to be reasonably stable.

(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the

date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

(b)(1) A multiyear contract authorized by this section shall contain—

(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

(d) The Administrator shall prescribe regulations for the implementation of this section.

(e) For the purposes of this section:

(1) The term "appropriations" has the meaning given that term in section 1511 of title 31.

(2) The term "cancel" or "cancellation" refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

(3) The term "multiyear contract" means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is

entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

(4) The term "nonrecurring, unrecovered costs" means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

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SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

210. Appointment and general authority of Administrator; Deputy Administrator.
211. Decisions by Administrator; opinions of Attorney General.
212. Delegation of authority and assignment of duties.
213. Contracts and personal services.
214. Reports to the Congress.
215. Publication of laws relating to veterans.
216. Assistance to certain rehabilitation activities.
217. Studies of rehabilitation of disabled persons.
218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration.
219. Evaluation and data collection.
220. Coordination and promotion of other programs affecting veterans and their dependents.
221. Advisory Committee on Former Prisoners of War.
222. Advisory Committee on Women Veterans.
223. Administrative settlement of tort claims.

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SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

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§ 216. Assistance to certain rehabilitation activities

(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

(1) the activities are available to disabled veterans on a national basis; and

(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name "Veterans' Administration" by—

(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

(2) The use of such seal or name or any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if—

(A) the Administrator has approved the advertisement; and

(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.

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§ 223. Administrative settlement of tort claims

(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

(b) For purposes of this subsection, the term "settle", with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.

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PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

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SUBCHAPTER I—GENERAL

§ 301. Definitions

For the purposes of this chapter—

(1) * * *

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(3) The term "chronic disease" includes—

Anemia, primary
Arteriosclerosis
Arthritis
Atrophy, progressive muscular
Brain hemorrhage
Brain thrombosis
Bronchiectasis
Calculi of the kidney, bladder, or gallbladder
Cardiovascular-renal disease, including hypertension

Cirrhosis of the liver
Coccidioidomycosis
Diabetes mellitus
Encephalitis lethargica residuals
Endocarditis
Endocrinopathies
Epilepsies
Hansen's disease
Hodgkin's disease
Leukemia
Lupus erythematosus, systemic
Myasthenia gravis
Myelitis
Myocarditis
Nephritis
Organic diseases of the nervous system
Osteitis deformans (Paget's disease)
Osteomalacia
Palsy, bulbar
Paralysis agitans
Psychoses
Purpura idiopathic, hemorrhagic
Raynaud's disease
Sarcoidosis
Scleroderma
Sclerosis, amyotrophic lateral
Sclerosis, multiple
Syringomyelia
Thromboangiitis obliterans (Buerger's disease)
Tuberculosis, active
Tumors, malignant, or of the brain or spinal cord or peripheral nerves
Ulcers, peptic (gastric or duodenal)

and such other chronic diseases as the Administrator may add to this list.

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§ 312. Presumptions relating to certain diseases and disabilities

(a) * * *

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(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

(1) avitaminosis,
(2) beriberi (including beriberi heart disease),
(3) chronic dysentery,
(4) helminthiasis,
(5) malnutrition (including optic atrophy associated with malnutrition),
(6) pellagra,
(7) any other nutritional deficiency,

(8) psychosis,
(9) any of the anxiety states,
(10) dysthymic disorder (or depressive neurosis),
(11) organic residuals of frostbite, if the Administrator determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite, [or]
(12) post-traumatic osteoarthritis,
(13) peripheral neuropathy except where directly related to infectious causes,
(14) irritable bowel syndrome, or
(15) peptic ulcer disease,

which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

610. Eligibility for hospital, nursing home, and domiciliary care.
611. Care during examinations and in emergencies.
612. Eligibility for [medical treatment.] *outpatient services.*
612A. Eligibility for readjustment counseling and related mental health services.
612B. Counseling for former prisoners of war.
613. Medical care for survivors and dependents of certain veterans.
614. Fitting and training in use of prosthetic appliances; seeing-eye dogs.
615. Tobacco for hospitalized veterans.
616. Hospital care by other agencies of the United States.
617. [Invalid] *Home health services; invalid* lifts and other devices.
618. Therapeutic and rehabilitative activities.
619. Repair or replacement of certain prosthetic and other appliances.
620. Transfers for nursing home care; adult day health care.
620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities.
620B. Respite care.
[620C. Community based psychiatric residential treatment for chronically mentally ill veterans.]

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SUBCHAPTER I—GENERAL

§ 601. Definitions

For the purposes of this chapter—
(1) * * *

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(4) The term "Veterans' Administration facilities" means—
(A) facilities over which the Administrator has direct jurisdiction; [and]
(B) Government facilities for which the Administrator [contracts.] *contracts; and*

(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.

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§ 603. Contracts for hospital care and medical services in non-Veterans' Administration facilities

(a) When Veterans' Administration facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Administrator, as authorized in section 610 or 612 of this title, may contract with non-Veterans' Administration facilities in order to [furnish—] *furnish any of the following:*

(1) [hospital] *Hospital* care or medical services to a veteran for the treatment of—

(A) a service-connected disability; or

(B) a disability for which a veteran was discharged or released from the active military, naval, or air [service;] *service.*

(2) [medical] *Medical* services for the treatment of any disability of—

(A) a veteran described in section 612(a)(1)(B) of this title;

(B) a veteran described in section [612(f)(1)(A)(ii)] *612(a)(4) of this title, for a purpose described in section 612(a)(5)* of this title;

(C) a veteran described in section [612(g)] *612(a)(3) (other than a veteran who is a former prisoner of war)* of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Veterans' Administration [facilities;] *facilities.*

(3) [hospital] *Hospital* care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Veterans' Administration facility *or nursing home care under section 620 of this title* until such time following the furnishing of care in the non-Veterans' Administration facility as the veteran can be safely transferred to a Veterans' Administration [facility;] *facility.*

(4) [hospital] *Hospital* care for women [veterans;] *veterans.*

(5) [hospital] *Hospital* care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and non-Veterans' Administration facilities in each such non-

contiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Veterans' Administration within the 48 contiguous States, but the authority of the Administrator under this paragraph with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico to the restrictions in this paragraph with respect to hospital patient loads and the incidence of the furnishing of medical [services;] *services.*

(6) [diagnostic] *Diagnostic* services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Veterans' Administration out-patient clinics to obviate the need for hospital [admission; or] *admission.*

(7) [outpatient] *Outpatient* dental services and treatment, and related dental appliances, for a veteran described in section 612(b)(1)(G) of this title.

(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.

* * * * * * *

(c) The Administrator shall include in the budget documents which the Administrator submits to the Congress for any fiscal year, a detailed report on the furnishing of contract care and services during the most recently concluded fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.

SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

§ 610. Eligibility for hospital, nursing home, and domiciliary care

(a)(1) * * *

* * * * * * *

[(b) The Administrator, within the limits of Veterans' Administration facilities, may furnish domiciliary care to—

[(1) a veteran who was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or a person who is in receipt of disability compensation, when such person is suffering from a permanent disability or tuberculosis or neuropsychiatric ailment and is incapacitated from earning a living and has no adequate means of support; and

[(2) a veteran who is in need of domiciliary care if such veteran is unable to defray the expenses of necessary domiciliary care.]

(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the purpose of the furnishing of medical services to the veteran.

(2) This subsection applies in the case of the following veterans:

(A) Any veteran who the Administrator determines is incapacitated from earning a living and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

(B) Any veteran who the Administrator determines has no adequate means of support.

* * * * * * *

§ 612. Eligibility for [medical treatment] *outpatient services*

(a)(1) Except as provided in subsection (b) of this section, the Administrator [may furnish] *shall furnish on an ambulatory or outpatient basis* such medical services as the Administrator determines are needed—

(A) to any veteran for a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service); [and]

(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or [more.] *more; and*

(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).

[(2) Subject to subsection (k) of this section, as part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities).]

(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

(A) to any veteran who is a former prisoner of war;

(B) to any veteran of the Mexican border period or of World War I; and

(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.

(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds that a longer period is required by reason of the disability being treated.

[(3)] *(6)* In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.

(b)(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(A) which is service-connected and compensable in degree;

(B) which is service-connected, but not compensable in degree, but only if—

(i) the dental condition or disability is shown to have been in existence at *the* time of *the veteran's* discharge or release from active military, naval, or air service;

(ii) the veteran had served on active duty for a period of not less than [one hundred and eighty] *180* days immediately before such discharge or release;

(iii) application for treatment is made within [ninety] *90* days after such discharge or release, except that (I) in the case of a veteran who reentered active military, naval, or air service within [ninety] *90* days after the date of such veteran's prior discharge or release from such service, application may be made within [ninety] *90* days from the date of such veteran's subsequent discharge or release from such service, and (II) if a disqualifying discharge or release has been corrected by competent authority, application may be made within [ninety] *90* days after the date of correction; and

(iv) the veteran's certificate of discharge or release from active duty does not bear a certification that the veteran was provided, within the [ninety-day] *90-day* period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed;

(C) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(D) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(E) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

[(F) from which a veteran of the Spanish-American War or Indian wars is suffering;]

[(G)] *(F)* from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than [six months] *90 days* is suffering; or

[(H)] *(G)* from which a veteran who has a service-connected disability rated as total is suffering.

* * * * * * *

(4)(A) Except as provided in subparagraph (B) of this paragraph, in any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of [subsections (a) and (f)] *subsection (a)* of this section *(other than paragraphs (3)(B) and (3)(C) of that subsection)* and section 603 of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Administrator shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 603 of this title for contracting with private facilities and in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Administrator determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Administrator shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this paragraph shall include a comment by the Administrator on the effect of the application of the criteria prescribed in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans.

* * * * * * *

[(e) Any disability of a veteran of the Spanish-American War or Indian Wars, upon application for the benefits of this section or outpatient medical services under section 624 of this title, shall be considered for the purposes thereof to be a service-connected disability incurred or aggravated in a period of war.**]**

(f)**[**(1) Except as provided in paragraph (4) of this subsection, the Administrator may furnish medical services for any disability on an outpatient or ambulatory basis—

[(A) to any veteran eligible for hospital care under section 610 of this title (i) if such services are reasonably necessary in preparation for, or (to the extent that facilities are available) to obviate the need of, hospital admission, or (ii) if such a veteran has been furnished hospital care, nursing home care, or domiciliary care and such medical services are reasonably necessary to complete treatment incident to such care (for a period not in excess of twelve months after discharge from such treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated); and

[(B) to any veteran who is a former prisoner of war.

[(2) Subject to subsection (k) of this section, as part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities).

[(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.**]**

[(4)(A)**]** *(1)* The Administrator may not furnish medical services under **[**this**]** subsection *(a) of this section* (including home health services under **[**paragraph (2) of this subsection)**]** *section 617 of this title)* to a veteran who is eligible for hospital care under this chapter by reason of section 610(a)(2)(B) of this title unless the veteran agrees to pay to the United States the amount determined under [subparagraph (B) of this paragraph.] *paragraph (2) of this subsection.*

[(B)] *(2)* A veteran who is furnished medical services under [this subsection] *subsection (a) of this section* and who is required under [subparagraph (A)] *paragraph (1)* of this [paragraph] *subsection* to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Veterans' Administration facility. Such estimated average cost shall be determined by the Administrator.

[(C)] *(3)* A veteran may not be required to make a payment under this [paragraph] *subsection* for services furnished under [this] subsection *(a) of this section* during any 90-day period to the extent that such payment would cause the total amount paid by the veteran under this [paragraph] *subsection* for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such 90-day period.

[(D)] *(4)* A veteran may not be required to make a payment under this subsection if such payment would result in the veteran paying, under this subsection and section 610(f) of this title, a total amount greater than four times the amount of the inpatient Medicare deductible for care or services, or any combination thereof, furnished under this chapter during any 365-calendar-day period.

[(E)] *(5)* This subsection does not apply with respect to home health services under [this subsection] *section 617 of this title* to the extent that such services are for improvements and structural alterations.

[(F)] *(6)* For the purposes of this [paragraph,] *subsection,* the term "inpatient Medicare deductible" means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

[(G)] *(7)* Amounts collected or received by the Veterans' Administration under this [paragraph] *subsection* shall be deposited in the Treasury as miscellaneous receipts.

[(g)(1) The Administrator may furnish medical services which the Administrator determines are needed to a veteran—

[(A) who is a veteran of the Mexican border period or of World War I; or

[(B) who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

[(2) As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran home health services under the terms and conditions set forth in subsection (f) of this section.

[(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.]

* * * * * * *

(i) The Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

[(1) To any veteran for a service-connected disability.

[(2) To any veteran described in subsection (f)(2) of this section.

[(3) To any veteran with a disability rated as service-connected (including any veteran being examined to determine the existence or rating of a service-connected disability).

[(4) To any veteran (A) who is a former prisoner of war, or (B) who is eligible for care under section 610(a)(5) of this title.

[(5) To any veteran being furnished medical services under subsection (g) of this section.

[(6) To any veteran who is in receipt of pension under section 521 of this title.]

(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of necessary care as determined under section 622(a)(1)(C) of this title.

* * * * * * *

[(k) The Administrator may furnish home health services to a veteran in any setting in which the veteran is residing. The Administrator may not furnish such services in such a manner as to relieve any other person or entity of a contractual obligation to furnish services to the veteran. When home health services are furnished in a setting other than the veteran's home, such services may not include any structural improvement or alteration.]

§ 612A. Eligibility for readjustment counseling and related mental health services

(a) * * *

* * * * * * *

[(g)(1) During the 24-month period ending on September 30, 1989, the Administrator shall take appropriate steps to ensure—

[(A) the orderly, gradual transition, by October 1, 1989, of that part of the program established under this section for the provision of readjustment counseling services by Veterans' Administration personnel from a program providing such services primarily through centers located in facilities situated apart from the health-care facilities operated by the Veterans' Administration for the provision of other health-care services under other provisions of this chapter to a program providing readjustment counseling services primarily through such health-care facilities; and

[(B) the continued availability after such date of readjustment counseling and related mental health services under this section to veterans eligible for the provision of such counseling and services who request such counseling.]

(g)(1)(A) The Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

(B) a closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.

(2)(A) Not later than April 1, [1987,] *1988,* the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Administrator's evaluation of the effectiveness in helping to meet the readjustment needs of veterans who served on active duty during the Vietnam era of the readjustment counseling and mental health services provided pursuant to this section (and of outreach efforts with respect to such counseling and services). Such report shall give particular attention, in light of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98–160) [(or, if the study is not then completed, whatever information from it is then available)] to the provision of such counseling and services to veterans with post-traumatic stress disorder and to the diagnosis and treatment of such disorder.

(B) The report required by subparagraph (A) of this paragraph shall include—

(i) The opinion of the Administrator with respect to (I) the extent to which the readjustment needs of veterans who served on active duty during the Vietnam era remain unmet, and (II) the extent to which the provision of readjustment counseling services under this section in [a program providing such services through facilities situated apart from Veterans' Administration health-care facilities] *centers* is needed to meet such needs; and

(ii) in light of the opinion submitted pursuant to clause (i) of this subparagraph, such recommendations for amendments to [paragraph (1) of] this subsection and for other legislative and administrative action as the Administrator considers appropriate.

[(3) Not later than July 1, 1987, the Administrator shall submit to such committees a report containing a description of the plans made and timetable for carrying out paragraph (1) of this subsection. Such report shall be prepared taking into consideration the results of the study referred to in paragraph (2)(A) of this subsection (or, if the study is not then completed, whatever information from it is then available).

[(4) Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under as much of the transition as was carried out pursuant to paragraph (1) of this subsection before September 30, 1988, including such recommendations for legislative and administrative action as the Administrator considers appropriate in light of such experience.]

(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

(B) The plan shall include the Administrator's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

(ii) The distance between the center and the general Veterans' Administration facility.

(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

(iv) The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimat-

ed number of veterans at the center and the general Veterans' Administration facility.

(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

(D) For the purposes of this paragraph , the term "general Veterans' Administration facility" means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.

(h)(1) * * *

* * * * * * *

(3)(A) In order to carry out the pilot program, the Administrator shall—

(i) designate as sites for demonstration projects 10 facilities which on December 3, 1985, are providing readjustment counseling under this section; and

(ii) assign such staff and other resources to such facilities as are necessary to enable such facilities to provide the services referred to in subparagraphs (A) and (C) of paragraph (2) of this subsection.

(B) Facilities designated under subparagraph (A) of this paragraph shall be known as Vietnam Veteran Resource Centers (hereinafter in this subsection referred to as [("Centers").] *"Resource Centers").*

(4) The Administrator—

(A) shall be responsible for coordinating the assignment and use of employees, on full- or part-time bases, as appropriate, in each *Resource* Center; and

(B) shall, in carrying out that responsibility, make maximum feasible use of the Veterans' Administration employees who are providing services at each facility on the date it is designated as a *Resource* Center under this subsection.

(5) The Secretary of Labor shall provide for the assignment to each *Resource* Center, on full- or part-time bases, as the Secretary considers appropriate, of disabled veterans' outreach specialists appointed under section 2003A of this title or employees on the staffs

of local employment service offices who are assigned to perform services under section 2004 of this title.

* * * * * * *

(i) For the purposes of this section:

(1) The term "center" means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

(2) The term "Veterans' Administration general health-care facility" means a health-care facility which is operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.

* * * * * * *

§ 617. [Invalid] *Home health services; invalid* lifts and other devices

(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) may not exceed—

(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.

(3) The Administrator may furnish home health services to a veteran in any setting in which the veteran is residing. The Administrator may not furnish such services in such a manner as to relieve any other person or entity of a contractual obligation to furnish services to the veteran. When home health services are furnished in a setting other than the veteran's home, such services may not include any structural improvement or alteration.

[(a)] *(b)* The Administrator may furnish an invalid lift, or any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated, to any veteran who is receiving (1) compensation under section 314(l)–(p) of this title (or the comparable rates provided pursuant to section 334 of this title), or (2) pension under chapter 15 of this title by reason of being in need of regular aid and attendance.

[(b)] *(c)* The Administrator may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning tele-

vision decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.

* * * * * * *

§ 620. Transfers for nursing home care; adult day health care

(a) * * *

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(e)(1) **[**For the purposes of this section, the term "nursing home care" includes intermediate care, as determined by the Administrator in accordance with regulations which the Administrator shall prescribe.**]** The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a)(2)(B) of this section shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for nursing home **[**care (as defined in section 101(28) of this title).**]** *care.*

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(f)(1)(A) * * *

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(3) Adult day health care may not be furnished under this section after September 30, **[**1988.**]** *1991.*

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[§ 620C. Community-based psychiatric residential treatment for chronically mentally ill veterans

[(a) For the purpose of this section:

[(1) The term "case management" includes the coordination and facilitation of all services furnished to a veteran by the Veterans' Administration, either directly or through a contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by either the Veterans' Administration or another entity), monitoring, reassessment, and followup.

[(2) The term "contract facility" means any facility which has been awarded a contract under subsection (b)(1) of this section.

[(3) The term "eligible veteran" means a veteran who, at the time of referral to a contract facility—

[(A) is being furnished hospital, domiciliary, or nursing home care by the Administrator for a chronic mental illness disability; or

[(B) is homeless and has a chronic mental illness disability; or

[(C) is a veteran described in section 612(a)(1)(B) of this title and has a chronic mental illness disability.

[(b)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from chronic mental illness disabilities.

[(2) Before furnishing such care and services to any veteran through a contract facility, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

[(c) In the case of each eligible veteran provided care and services under this section, the Administrator shall designate a Veterans' Administration health-care employee to provide case management services.

[(d) In furnishing care and services under this section, the Administrator shall accord priority for such care and services in the following order:

[(1) To any veteran for a service-connected chronic mental illness disability.

[(2) To any veteran with a disability rated as service- connected.

[(3) To any veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

[(e) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a contract facility under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

[(f) Not later than 3 years after the date of enactment of this section, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under this section. The report shall include the Administrator's evaluation and findings regarding—

[(1) the quality of care furnished to participating veterans through contract facilities;

[(2) any health advantages that may result from furnishing such care and services to veterans in such contract facilities rather than in inpatient facilities over which the Administrator has direct jurisdiction;

[(3) the effectiveness of the use of contract facilities under this section is enabling the participating veterans to live outside of Veterans' Administration inpatient facilities and to achieve independence in living and functioning in their communities;

[(4) the health advantages and cost effectiveness of the use of contract facilities under this section to furnish shelter and health care to homeless veterans who are suffering from chronic mental illness disabilities;

[(5) the cost-effectiveness of furnishing such care through contract facilities under this section, including the effect on the average daily census in the Veterans' Administration hospitals, nursing homes, and domiciliary facilities participating in the program (taking into account whether the beds previously occupied by the participating veterans were subsequently occupied by other eligible veterans or remained unoccupied) and the effect on the numbers of Veterans' Administration staff employed at such facilities; and

[(6) any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in such report.]

SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

§ 621. Power to make rules and regulations

[The Administrator shall prescribe—

[(1) such rules and procedure governing the furnishing of hospital, nursing home, and domiciliary care as the Administrator may deem proper and necessary;

[(2) limitations in connection with the furnishing of hospital, nursing home, and domiciliary care; and

[(3) such rules and regulations as the Administrator deems necessary in order to promote good conduct on the part of persons who are receiving hospital, nursing home, or domiciliary care in Veterans' Administration facilities.]

Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).

§ 622. Determination of inability to defray necessary expenses; income thresholds

(a)(1) * * *

* * * * * * *

(g) For the purposes of [sections 610(b)(2) and] *section* 624(c) of this title, the fact that a veteran is—

(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) a veteran with a service-connected disability; or

(3) in receipt of pension under any law administered by the Veterans' Administration,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.

* * * * * * *

§ 624. Hospital care, medical services, and nursing home care abroad

(a) * * *

* * * * * * *

[(b) The Administrator may furnish necessary hospital care and medical services to any otherwise eligible veteran for any service-connected disability if the veteran (1) is a citizen of the United States sojourning or residing abroad, or (2) is in the Republic of the Philippines.**]**

(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

(A) if the veteran is in the Republic of the Philippines or in Canada; or

(B) if the Administrator determines, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.

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§ 629. Recovery by the United States of the cost of certain care and services

(a)(1) * * *

* * * * * * *

(b)(1) * * *

* * * * * * *

(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.

* * * * * * *

SUBCHAPTER V—PAYMENTS TO STATE HOMES

§ 641. Criteria for payment

(a) The Administrator shall pay each State at the per diem rate of—

(1) **[**$7.30**]** *$8.70* for domiciliary care,

(2) [$17.05] *$20.35* for nursing home care, and

(3) [$15.25] *$20.35* for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

* * * * * * *

(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.

CHAPTER 19—INSURANCE

SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

Sec.

701. Definitions.
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703. Amount of insurance.
704. Plans of insurance.
705. Renewal.
706. Policy provisions.
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708. Premium payments.
709. Effective date of insurance.
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720. National Service Life Insurance Fund.
721. Extra hazard costs.
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726. Authority for higher interest rates for amounts payable to beneficiaries.
727. Authority for higher monthly installments payable to certain annuitants.

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

740. Definition.
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755. United States Government Life Insurance Fund.
756. Military and naval insurance appropriation.
757. Extra hazard costs.
758. Statutory total permanent disability.
759. Waiver of disability for reinstatement.
760. Waiver of premium payments on due date.
761. Authority for higher interest rates for amounts payable to beneficiaries.
762. Authority for higher monthly installments payable to certain annuitants.

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SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

* * * * * * *

§ 727. Authority for higher monthly installments payable to certain annuitants

(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

* * * * * * *

§ 762. Authority for higher monthly installments payable to certain annuitants

(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may

make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.

SUBCHAPTER III—SERVICEMEN'S GROUP LIFE INSURANCE

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§ 769. Deductions; payment; investment; expenses

(a)(1) * * *

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(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.

* * * * * * *

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

* * * * * * *

§ 802. Limitations on assistance furnished

(a) The assistance authorized by section 801(a) of this title shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and shall be afforded under one of the following plans, at the option of the veteran but shall not exceed [$35,500] *$38,000* in any one case—

(1) where the veteran elects to construct a housing unit on land to be acquired by such veteran, the Administrator shall pay not to exceed 50 percent of the total cost to the veteran of

(A) the housing unit and (B) the necessary land upon which it is to be situated;

(2) where the veteran elects to construct a housing unit on land acquired by such veteran prior to application for assistance under this chapter, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 percent of the total cost to the veteran of the housing unit and the land necessary for such housing unit, or (B) 50 percent of the cost to the veteran of the housing unit plus the full amount of the unpaid balance, if any, of the cost of the veteran of the land necessary for such housing unit;

(3) where the veteran elects to remodel a dwelling which is not adapted to the requirements of such veteran's disability, acquired by such veteran prior to application for assistance under this chapter, the Administrator shall pay not to exceed (A) the cost of the veteran of such remodeling; or (B) 50 percent of the cost to the veteran of such remodeling; plus the smaller of the following sums: (i) 50 percent of the cost to the veteran of such dwelling and the necessary land upon which it is situated, or (ii) the full amount of the unpaid balance, if any, of the cost to the veteran of such dwelling and the necessary land upon which it is situated; and

(4) where the veteran has acquired a suitable housing unit, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 percent of the cost to the veteran of such housing unit and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the veteran of such housing unit and the necessary land upon which it is situated.

(b) Except as provided in section 804(b) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

(1) the actual cost, or, in the case of a veteran acquiring a residence already adapted with special features, the fair market value, of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

(2) **[**$6,000.**]** *$6,500.*

* * * * * * *

§ 806. Mortgage Protection Life Insurance

[(a) The Administrator is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of mortgage protection life insurance on a group basis to provide the benefits specified in this section.

[(b) Any policy of insurance purchased by the Administrator under this section shall be placed in effect on a date determined by the Administrator and shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran, unless the veteran elects in writing not to be insured under this section of fails to timely respond to a request from the Administrator for information on which the veteran's premium can be based.

[(c) The initial amount of insurance provided hereunder shall not exceed the lesser of the following amounts: (1) $40,000, (2) the amount of the loan outstanding on such housing unit on the date insurance under this section is placed in effect, or (3) in the case of a veteran granted assistance in securing a housing unit on or after such date the amount of the original loan. The amount of such insurance shall be reduced according to the amortization schedule of the loan and at no time shall exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit no insurance shall be payable hereunder. If any eligible veteran elects not to be insured under this section, the veteran may thereafter be insured hereunder only upon application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

[(d) The premium rates charged a veteran for insurance under this section shall be paid at such times and in such manner as the Administrator shall prescribe and shall be based on such mortality data as the Administrator deems appropriate to cover only the mortality cost of insuring standard lives. The Administrator is authorized and directed to deduct the premiums charged veterans for life insurance under this section from any compensation or other cash benefits payable to them by the Veterans' Administration and to pay such premiums to the insurer or insurers for such insurance. Any veterans insured hereunder not eligible for cash benefits from the Veterans' Administration may pay the amount of the veteran's premiums directly to the insurer or insurers for insurance hereunder.

[(e) The United States shall bear all of the cost of the insurance provided under this section except the amount of the premium rates established for eligible veterans under subsection (d) as the mortality cost of insuring standard lives. For each month for which any eligible veteran is insured under a policy purchased under this section there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation "Compensation and Pensions, Veterans' Administration" an amount necessary to cover the cost of the insurance in excess of the premiums established for eligible veterans, including the cost of administration and the cost of the excess mortality attributable to the veterans' disabilities. Appropriations to carry out the purposes of this section are hereby authorized.

[(f) Any amount of insurance in force under this section on the date of death of an eligible veteran insured hereunder shall be paid only to the holder of the mortgage loan, the payment of which such insurance was granted, for credit on the loan indebtedness and the liability of the insurer under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

[(g) Each policy purchased under this section shall also provide, in terms approved by the Administrator, for the following:

[(1) reinsurance, to the extent and in a manner to be determined by the Administrator to be in the best interest of the veterans or the Government, with other insurers which meet qualifying criteria established by the Administrator as may elect to participate in such reinsurance.

[(2) that at any time the Administrator determines such action to be in the best interest of veterans or the Government the Administrator may (A) discontinue the entire policy, or (B) at the Administrator's option, exclude from coverage under such policy loans made after a date fixed by the Administrator for such purpose; however, any insurance previously issued to a veteran under such policy may not be canceled by the insurer soley because of termination of the policy by the Administrator with respect to new loans. If the policy is wholly discontinued, the Administrator shall have the right to require the transfer, to the extent and in a manner to be determined by the Administrator, to any new company or companies with which the Administrator has negotiated a new policy or policies, the amounts, as determined by the existing insurer or insurers with the concurrence of the Administrator of any policy or contingency reserves with respect to insurance previously in force;

[(3) issuance to each veteran insured under this section of a uniform type of certificate setting forth the benefits to which the veteran is entitled under the insurance;

[(4) any other provisions which are reasonably necessary or appropriate to carry out the provisions of this section; and

[(5) an accounting to the Administrator not later than ninety days after the end of each policy year which shall set forth, in a form approved by the Administrator, (A) the amount of premiums paid by veterans and contributions made by the Veterans' Administration accrued under the contract or agreement from its date of issue to the end of such contract year; (B) the total of all mortality and other claim charges incurred for that period; and (C) the amount of the insurer's expense and risk charges, if any, for that period. Any excess of the total of item (A) over the sum of items (B) and (C) shall be held by the insurer as a contingency reserve to be used by such insurer for charges under the contract or agreement only. The contingency reserve shall bear interest at a rate to be determined in advance of each contract year by the insurer, which rate shall be approved by the Administrator if consistent with the rates generally used by the insurer for similar funds held under other plans of group life insurance. If and when the Administrator determines that such contingency reserve has attained an amount estimated by the Administrator to make satisfactory provision for adverse fluctuations in future charges under the contract, the Administrator shall require the insurer to adjust the premium rates and contributions so as to prevent any further substantial accretions to the contingency reserve. If and when the contract or agreement is discontinued and if after all charges have been made there is any positive balance remaining in the contingency reserve, such balance shall be payable to the Administrator and by the Administrator deposited to the appropriation "Compensation and Pensions, Veterans' Administration," subject to the right of the insurer to make such payment in equal monthly installments over a period of not more than two years.

[(h) With respect to insurance contracted for under this section, the Administrator is authorized to adopt such regulations relating to eligibility of the veteran for insurance, maximum amount of insurance, maximum duration of insurance, and other pertinent factors not specifically provided for in this section, which in the Administrator's judgment are in the best interest of veterans or the Government. Insurance contracted for under this section shall take effect as to eligible veterans heretofore granted assistance under this chapter on a date determined by the Administrator, and as to eligible veterans hereafter granted assistance under this chapter at the time of the closing of the veteran's loan. The amount of the insurance at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by the policy.

[(i) Insurance contracted for under this section shall terminate upon whichever of the following events first occurs:

[(1) satisfaction of the veterans' indebtedness under the loan upon which the insurance is based;

[(2) the veteran's seventieth birthday;

[(3) termination of the veteran's ownership of the property securing the loan;

[(4) discontinuance of payment of premiums by the veteran; or

[(5) discontinuance of the entire contract or agreement.

[(j) Termination of the mortgage protection life insurance will in no way affect the guaranty or insurance of the loan by the Administrator.]

(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to

cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall, to the extent of such compensation or other benefits, deduct therefrom the premiums charged the veteran under this section.

(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the "Veterans Insurance and Indemnities" appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Administrator determines are in the best interest of veterans or the United States.

(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

(2) The veteran's seventieth birthday.

(3) Termination of the veteran's ownership of the property securing the loan.

(4) Discontinuance of payment of premiums by the veteran.

(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.

CHAPTER 23—BURIAL BENEFITS

Sec.
901. Flags.
902. Funeral expenses.
903. Death in Veterans' Administration facility; plot allowance.
904. Claims for reimbursement.

905. Persons eligible under prior law.
906. [Headstones and markers.] *Headstones, markers, and grave liners.*
907. Death from service-connected disability.
908. Transportation of deceased veteran to a national cemetery.

* * * * *

§ 906. [Headstones and markers] *Headstones, markers, and grave liners*

(a) * * *

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(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.

§ 907. Death from service-connected disability

In any case in which a veteran dies as the result of a service-connected disability or disabilities, the Administrator, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the greater of (1) [$1,100,] *$1,500,* or (2) the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of any benefits authorized under sections 902 and 903 (a)(1) and (b) of this title.

* * * * * * *

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

* * * * * * *

§ 1004. Administration

(a) * * *

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(c)(1) * * *

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(2) The grave markers referred to in paragraph (1) shall be upright for interments that occur on or after January 1, 1987, except that—

(A) in the case of any cemetery scheduled to be closed by September 30, 1991, as indicated in the documents submitted by the Administrator to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget for fiscal year 1987, the Administrator may provide for flat grave markers; [and]

(B) in the case of any cemetery with a section which has flat markers on the date of the enactment of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, the Administrator may continue to provide for flat grave markers in such [section.] *section;*

(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.

* * * * * * *

(f)*(1)* The Administrator is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the State or political subdivision to which such conveyance is to be made notifies the Administrator in writing of its willingness to accept and maintain the road included in such conveyance. Upon the execution and delivery of such a conveyance, the jurisdiction of the United States over the road conveyed shall cease and thereafter vest in the State or political subdivision concerned.

(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.

* * * * * * *

§ 1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

(a)(1) * * *

* * * * * * *

(b) Grants under this section shall be subject to the following conditions:

[(1) No State may receive grants under this section in any fiscal year in a total amount in excess of 20 per centum of the total amount appropriated for such grants for such fiscal year.]

[(2)] *(1)* The amount of any grant under this section may not exceed an amount equal to 50 [per centum] *percent* of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

[(3)] *(2)* If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph [(2)] *(1)* of this subsection, but the value of such land may not be used for more than an amount equal to 50 [per centum] *percent* of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section.

[(4)] *(3)* If a State that has received a grant under this section to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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SUBCHAPTER II—MISCELLANEOUS PROVISIONS

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§ 1788. Measurement of courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods and not more than 5 hours of supervised study per week allowed, but if such course is approved pursuant to section 1775(a)(1) of this title, then 22 hours per week of attendance, with no more than 2½ hours of rest period per week allowed and excluding supervised study, shall be considered full time;

(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction and not more than 5 hours of supervised study (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 1775(a)(1) of this title, then 18 hours per week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time;

(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when (A) a minimum of four units per year is required or (B) an individual is pursuing a program of education leading to an accredited high school diploma at a rate which, if continued, would result in receipt of such a diploma in four ordinary school years. For the purpose of subclause (A) of this clause, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year;

(4) an institutional undergraduate course offered by a college or university in residence on a standard quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours per semester or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, if required, except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;

(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the eligible veteran or person is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than thirty hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining;

(6) an institutional course offered as part of a program of education, not leading to a standard college degree, under section 1691(a)(2) of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4) of this subsection as determined by the educational institution; and

(7) an institutional course not leading to a standard college degree, offered by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, shall be measured as full time on the same basis as provided in clause (4) of this subsection if (A) such course is approved pur-

suant to section 1775 of this title, and (B) a majority of the total credits required for the course is derived from unit courses or subjects offered by the institution as part of a course, so approved, leading to a standard college degree.

Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full time measured on the same basis as provided by clause (4) of this subsection); but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours *(or two 50-minute periods)* of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours of attendance per week per quarter or semester. In no event shall such course be considered a full-time course when less than twenty-two hours per week of attendance is required.

* * * * * * *

(c) For the purposes of subsection (a) of this section, the term "in residence on a standard quarter- or semester-hour basis" means a study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term "standard class session" means one hour (or fifty-minute period) of academic instruction, two hours *(or two 50-minute periods)* of laboratory instruction, or three hours of workshop training.

* * * * * * *

§ 1793. Compliance surveys

[The Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons where at least 300 veterans or persons are enrolled under provisions of this title or where the course does not lead to a standard college degree. Such compliance survey shall assure that the institution and approved courses are in compliance with all applicable provisions of chapters 31, 34, 35, and 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section.]

(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such

compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

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* * * * * * *

SUBCHAPTER I—GENERAL

§ 1801. Definitions

(a) For the purpose of this chapter, the term "housing loan" means a loan for any of the purposes specified by sections 1810(a) and [1819(a)(1)] *1812(a)(1)* of this title.

* * * * * * *

§ 1802. Basic entitlement

(a)*(1)* [Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World War II, the Korean conflict, or the Vietnam era, for a service-connected disability, shall be] *The veterans described in paragraph (2) of this subsection are* eligible for the housing loan benefits of this chapter. In the case of any veteran who served on active duty during two or more of the periods specified in [the preceding sentence, or in section 1818 of this title,] *paragraph (2)* for which eligibility for the housing loan benefits under this chapter may be granted, entitlement derived from service during the most recent such period [(1)] *(A)* shall cancel any unused entitlement derived from service during any earlier such period, and [(2)] *(B)* shall be reduced by the amount by which entitlement from service during any earlier such period has been used to obtain a direct, guaranteed, or insured housing loan—

[(A)] *(i)* on real property which the veteran owns at the time of application; or

[(B)] *(ii)* as to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Administrator the resulting indebtedness of the veteran to the United States has been paid in full.

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

(3) Any unused entitlement of World War II of Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.

[Note: Section 1802(g) was transferred and redesignated as section 1802(a)(4).]

[(g)]*(4)* A veteran's entitlement under this chapter shall not be reduced by any entitlement used by the veteran's spouse which was based upon the provisions of paragraph (3) of section 1801[(a)]*(b)* of this title.

* * * * * * *

§ 1803. Basic provisions relating to loan guaranty *and insurance*

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) in the case of any loan of not more than $45,000, 50 percent of the loan; or

(II) in the case of any loan of more than $45,000, the lesser of $36,000 or 40 percent of the loan, except that the amount of such guaranty for any such loan shall not be less than $22,500; or

(ii) the maximum amount of guaranty entitlement available to the [veteran.] *veteran as specified in subparagraph (B) of this paragraph.*

(B) The maximum amount of guaranty entitlement available to a veteran [under] *for purposes specified in* section 1810 of this [chapter] *title* shall be $36,000 reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title.

[(2) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.]

[Note: Sections 1815 (a) and (b) were transferred and redesignated as subparagraphs (A) and (B) of section 1803(a)(2).]

[(a)] *(2)(A)* Any housing loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by any agency of the United States or of any State may, in lieu of such guaranty, be insured by the Administrator under an agreement whereby the Administrator will reimburse any such institution for losses incurred on such loan up to 15 per centum of the aggregate of loans so made or purchased by it.

[(b)]*(B)* Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Administrator may prescribe within the limitations set forth in this chapter.

* * * * * * *

(c)(1) * * *

* * * * * * *

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used—

(A) to refinance indebtedness pursuant to clause (5), (8), (9)(B)(i) of section 1810(a) of this title or section [1819(a)(1)(F)] *1812(a)(1)(F)* of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 1810(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran;

(D) to purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served; or

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1810(a)(9)(B)(ii) or [1819(a)(1)(G)] *(1812(a)(1)(G)* of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

* * * * * * *

§ 1804. Restrictions on loans

(a) * * *

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(c)(1) * * *

* * * * * * *

(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

(A) paragraph (1) of this subsection;

(B) paragraphs (1) through (5) and paragraph (7) of section 1810(a) of this title;

(C) section [1819(a)(5)(A)(i)] *1812(a)(5)(A)(i)* of this title; and

(D) section [1819(e)(5)] *1812(e)(5)* of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.

* * * * * * *

(f) Any housing loan which is financed through the assistance of this chapter and to which section [1817A] *1814* of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section [1817A.] *1814.*

* * * * * * *

[§ 1807. Service after July 25, 1947, and prior to June 27, 1950

[Each veteran whose only active duty service occurred after July 25, 1947, and prior to June 27, 1950, and who—

[(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

[(2) served for a period of 180 days or less and was discharged or released for a service-connected disability;

shall be eligible for housing loan benefits of this chapter.]

SUBCHAPTER II—LOANS

§ 1810. Purchase or construction of homes

(a) * * *

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(1) * * *

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(9)(A)(i) * * *

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(B)(i) * * *

* * * * * * *

(ii) To refinance, in accordance with section [1819(a)(5)] *1812(a)(5)* of this title, an existing loan that was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot to which the manufactured home is affixed.

* * * * * * *

(g)(1) * * *

* * * * * * *

(2) For the purpose of determining whether a veteran meets the standards referred to in subsection (b)(3) of this section and section [1819(e)(2)] *1812(e)(2)* of this title, the Administrator shall prescribe regulations which establish—

(A) credit underwriting standards to be used in evaluating loans to be guaranteed under this chapter; and

(B) standards to be used by lenders in obtaining credit information and processing loans to be guaranteed under this chapter.

* * * * * * *

§ 1811. Direct loans to veterans

(a) The Congress finds that housing credit [under] *for purposes specified in* section 1810 or [1819] *1812* of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to provide housing credit for veterans living in such rural areas and such small cities and towns.

(b) Whenever the Administrator finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed [under] *for purposes specified in* section 1810 or [1819] *1812* of this title, the Administrator shall designate such rural area or small city or town as a "housing credit shortage area". The Administrator shall, with respect to any such area, make, or enter into commitments to make, to any veteran eligible under this title, a loan for any or all of the purposes described in section 1810(a) or [1819] *1812* of this title (other than the refinancing of a loan under section 1810(a)(8) or [1819(a)(1)(F)).] *1812(a)(1)(F)).*

(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Administrator that—

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or manufactured home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 1810 or [1819] *1812* of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(d)(1) * * *

* * * * * * *

(2)(A) * * *

* * * * * * *

(B) The original principal amount of any loan made under this section for the purposes described in section [1819] *1812* of this title shall not exceed the amount that bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under such section at the time the loan is made bears to $20,000. The amount of the guaranty entitlement [under] *for purposes specified in* section 1810(c) of this title of any veteran who is granted a loan under this section, or who before October 18, 1978, was granted a loan under this section, shall be charged with the amount that bears the same ratio to $20,000 as the amount of the loan bears to $33,000.

* * * * * * *

(g) The Administrator may sell, and shall offer for sale, to any person or entity approved for such purpose by the Administrator, any loan made under this section at a price which the Administrator determines to be reasonable under the conditions prevailing in the mortgage market when the agreement to sell the loan is made; and shall guarantee any loan thus sold subject to the same conditions, terms, and limitations which would be applicable were the loan guaranteed [under] *for purposes specified in* section 1810 or [1819] *1812* of this title, as appropriate.

* * * * * * *

[Note: Section 1819 was transferred and redesignated as section 1812.]

[§ 1819.] *§ 1812.* Loans to purchase manufactured homes and lots

(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the housing loan benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

(A) To purchase a lot on which to place a manufactured home already owned by the veteran.

(B) To purchase a single-wide manufactured home.

(C) To purchase a single-wide manufactured home and a lot on which to place such home.

(D) To purchase a double-wide manufactured home.

(E) To purchase a double-wide manufactured home and a lot on which to place such home.

(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section.

(G) To refinance in accordance with paragraph (5) of this subsection and existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.

(2) A loan for any of the purposes described in paragraph (1) of this subsection (other than the refinancing under clause (F) of such paragraph of an existing loan) may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the manufactured home.

(3) Any loan made for the purposes described in clause (C), (E), or (G) of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the manufactured home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(ii) the loan must be secured by the same manufactured home or manufactured-home lot, or manufactured home and manufactured-home lot, as was the loan being refinanced;

(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced;

(v) the term of the loan may not exceed the original term of the loan being refinanced;

(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan;

(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied the home (or such a home on the lot); or

(III) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy the home, a manufactured home on the lot, or the home and the lot, as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, the manufactured home on the lot, or the home and the lot, as such spouse's home and must certify such occupancy in such form as the Administrator shall require.

(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made **[**under**]** *for purposes specified in* this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.

(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (1)(G) of this subsection or section 1810(a)(9)(B)(ii) of this title—

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran (except as provided in section 1804(c)(2) of this title) as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of—

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection or section 1810(a)(9)(B)(ii) of this title, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(b)(1) Use of entitlement [under] *for purposes specified in* this section for the purchase of a manufactured home unit shall preclude the use of remaining entitlement for the purchase of an additional manufactured home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(2) The Administrator shall restore entitlement to all housing loan benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.

(c)(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in manufactured home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty [under] *for purposes specified in* this section, the Administrator shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3) The Administrator's guaranty may not exceed the lesser of (A) the lesser of $20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the [veteran.] *veteran as specified in paragraph (4) of this subsection.* Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In any such accounting the Administrator shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Administrator may establish, and the Administrator shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Administrator may determine and such costs and expenses as the Administrator determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(4) The maximum amount of guaranty entitlement available to a veteran [under] *for purposes specified in* this section shall be $20,000 reduced by the amount of any such entitlement previously used by the veteran. Use of entitlement [under] *for purposes specified in* section 1810 or 1811 of this title shall reduce entitlement available for use [under] *for purposes specified in* this section to the same extent that entitlement available [under] *for purposes specified in* such section 1810 is reduced below $20,000.

(5) The amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing the loan.

(d)(1) The maturity of any loan guaranteed [under] *for purposes specified in* this section shall not be more than—

(A) fifteen years and thirty-two days, in the case of a loan for the purchase of a lot;

(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

(i) a single-wide manufactured home; or

(ii) a single-wide manufactured home and a lot;

(C) twenty-three years and thirty-two days, in the case of a loan for the purchase of a double-wide manufactured home; or

(D) twenty-five years and thirty-two days, in the case of a loan for the purchases of a double-wide manufactured home and a lot.

(2) Nothing in paragraph (1) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.

(e) No loan shall be guaranteed **[**under**]** *for purposes specified in* this section section unless—

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, as determined in accordance with the regulations prescribed under section 1810(g) of this title and taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the manufactured home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

(A) with respect to any portion of the loan to purchase a new manufactured home, such cost factors as the Administrator considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used manufactured home, the reasonable value of the property, as determined by the Administrator;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator,

(5) the veteran certifies, in such form as the Administrator shall prescribe, that the veteran will personally occupy the property as the veteran's home except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 1804(c)(2);

(6) the manufactured home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator.

(f) The Administrator shall establish such rate of interest for manufactured home loans and manufactured home lot loans as the Administrator determines to be necessary in order to assure a reasonable supply of manufactured home loan financing for veterans [under] *for purposes specified in* this section.

(g) The Administrator shall promulgate such regulations as the Administrator determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Administrator determines should be applicable to loans guaranteed or made [under] *for purposes specified in* this section. The Administrator shall have such powers and responsibilities in respect to matters arising under this section as the Administrator has in respect to loans made or guaranteed or under other sections of this chapter.

(h)(1) No loan for the purchase of a manufactured home shall be guaranteed [under] *for purposes specified in* this section unless the manufactured home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Administrator and no loan for the purchase of a lot on which to place a manufactured home owned by a veteran shall be guaranteed [under] *for purposes specified in* this section unless the lot meets such standards prescribed for manufactured home lots. Such standards shall be designed to encourage the maintenance and development of sites for manufactured homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions.

(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of manufactured homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for the additional purpose of monitoring safety factors involved in the installation of manufactured homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of manufactured homes purchased through the utilization of such assistance.

(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development, the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of manufactured homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw any delegation under the preceding sentence at any time and in whole or in part.

(i) The Administrator shall require the manufacturer to become a warrantor of any new manufactured home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Administrator shall require. Such warranty shall include (1) a specific statement that the manufactured home meets the standards prescribed by the Administrator pursuant to the provisions of subsection (h) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

(j) Subject to notice and opportunity for a hearing, the Administrator is authorized to deny guaranteed or direct loan financing in the case of manufactured homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (h) of this section; or in the case of manufactured homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of manufactured homes fails or is unable to discharge the manufacturer's obligations under the warranty.

(k) Subject to notice and opportunity for a hearing, the Administrator may refuse to approve as acceptable any site in a manufactured home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Administrator to be unfair or prejudicial to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee or make direct loans for veterans to purchase manufactured homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Administrator determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(l) The Administrator's annual report to Congress shall, beginning 12 months following October 23, 1970, include a report on operations under this section, including the results of inspections required by subsection (h) of this section, experience with compliance with the warranty required by subsection (i) of this section, and the experience regarding defaults and foreclosures.

(m) The provisions of sections 1804(d) and section 1821 of this chapter shall be fully applicable to lenders making guaranteed manufactured home loans and manufactured home lot loans and holders of such loans.

[Note: Sections 1817 and 1817A were transferred and redesignated as sections 1813 and 1814.]

[§ 1817.] *§ 1813.* Release from liability under guaranty

(a) Whenever any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran, the Administrator, upon application made by such veteran and by the transferee incident to such disposal, shall issue to such veteran in connection with such disposal a release relieving the veteran of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Administrator has determined, after such investigation as the Administrator may deem appropriate, that (1) the loan is current, and (2) the purchaser of such property from such veteran (A) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid, and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan, and (B) qualifies from a credit standpoint, to the same extent as if the transferee were a veteran eligible [under] *for purposes specified in* section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the transferee has assumed liability.

(b) If any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter without receiving a release from liability with respect to such loan under subsection (a), and a default subsequently occurs which results in liability of the veteran to the Administrator on account of the loan, the Administrator may relieve the veteran of such liability if the Administrator determines, after such investigation as the Administrator deems appropriate, that the property was disposed of by the veteran in such a manner, and subject to such conditions, that the Administrator would have issued the veteran a release from liability under subsection (a) with respect to the loan if the veteran had made application therefor incident to such disposal. Failure of a transferee to assume by contract all of the liabilities of the original veteran-borrower shall bar such release of liability only in cases in which no acceptable transferee, either immediate or remote, is legally liable to the Administrator for the indebtedness of the original veteran-borrower arising from termination of the loan. The failure of a veteran to qualify for release from liability under this subsection does not preclude relief from being granted under subsection 3102(b) of this title, if eligible thereunder.

(c) This section shall apply only to loans for which commitments are made before March 1, 1988.

[§ 1817A.] *§ 1814.* Assumptions; release from liability

(a)(1) If a veteran or any other person disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by a veteran under this chapter and the veteran or other person notifies the holder of the loan in writing before the property is disposed of, the veteran or other person, as the case may be, shall be relieved of all further liability to the Administrator with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that—

(A) the loan is current; and

(B) the purchaser of the property from such veteran or other person—

(i) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan; and

(ii) qualifies from a credit standpoint, to the same extent as if the purchaser were a veteran eligible under section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the purchaser is to assume liability.

(2) For the purposes of paragraph (1), paragraph (3), and paragraph (4)(C)(ii) of this subsection, the Administrator shall be considered to be the holder of the loan if the actual holder is not an approved lender described in section 1802.

(3) If the holder of the loan determines that the loan is not current or that the purchaser of the property does not meet the requirements of paragraph (1)(B) of this subsection, the holder shall—

(A) notify the transferor and the Administrator of such determination; and

(B) notify the transferor that the transferor may appeal the determination to the Administrator.

(4)(A) Upon the appeal of the transferor after a determination described in paragraph (3) is made, the Administrator shall, in a timely manner, review and make a determination (or a redetermination in any case in which the Administrator made the determination described in such paragraph) with respect to whether the loan is current and whether the purchaser of the property meets the requirements of paragraph (1)(B) of this subsection. The Administrator shall transmit, in writing, a notice of the nature of such determination to the transferor and the holder and shall inform them of the action that shall or may be taken under subparagraph (B) of this paragraph as a result of the determination of the Administrator.

(B)(i) If the Administrator determines under subparagraph (A) of this paragraph that the loan is current and that the purchaser meets the requirements of paragraph (1)(B) of this subsection, the holder shall approve the assumption of the loan, and the transferor shall be relieved of all liability to the Administrator with respect to such loan.

(ii) If the Administrator determines under subparagraph (A) of this paragraph that the purchaser does not meet the requirements of paragraph (1)(B) of this subsection, the Administrator may direct the holder to approve the assumption of the loan if—

(I) the Administrator determines that the transferor of the property is unable to make payments on the loan and has made reasonable efforts to find a buyer who meets the requirements of paragraph (1)(B) of this subsection and that, as a result, the proposed transfer is in the best interests of the Veterans' Administration and the transferor;

(II) the transferor has requested, within 15 days after receiving the notice referred to in subparagraph (A) of this paragraph, that the Administrator approve the assumption; and

(III) the transferor will, upon assumption of the loan by the purchaser, be secondarily liable on the loan.

(C) If—

(i) the loan is not approved for assumption under subparagraph (B) of this paragraph or paragraph (1) of this subsection; or

(ii) no appeal is made by the transferor under subparagraph (A) of this paragraph within 30 days after the holder informs the transferor of its determination under paragraph (3) of this subsection.

the holder may demand immediate, full payment of the principal, and all interest earned thereon, of such loan if the transferor disposes of the property.

(b) If a person disposes of residential property described in subsection (a)(1) of this section and the person fails to notify the holder of the loan before the property is disposed of, the holder, upon learning of such action by the person, may demand immediate and full payment of the principal, interest, and all other amounts owing under the terms of the loan.

(c)(1) In any case in which the holder of a loan described in subsection (a)(1) of this section has knowledge of a person's disposing of residential property securing the loan, the holder shall notify the Administrator of such action.

(2) If the holder fails to notify the Administrator in such a case, the holder shall be liable to the Administrator for any damage sustained by the Administrator as a result of the holder's failure, as determined at the time the Administrator is required to make payments in accordance with any insurance or guaranty provided by the Administrator with respect to the loan concerned.

(d) The Administrator shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a person with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Administrator shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2½ times larger than the regular type on such page the following: This loan is not assumable without the approval of the Veterans' Administration or its authorized agent.

(e) The Administrator shall establish in regulations a reasonable amount as the maximum amount that a lender may charge for processing an application for a creditworthiness determination and assumption of a loan pursuant to this section. Such regulations shall establish requirements for the timely processing of applications for acceptance of assumptions.

(f) The section shall apply only to loans for which commitments are made on or after March 1, 1988.

[§ 1815. Insurance of loans]

[Note: Sections 1815 (a) and (b) were transferred and redesignated as subparagraphs (A) and (B) of section 1803(a)(2).]

[Sections 1816 (a)–(c) were transferred and redesignated as section 1832. Sections 1816 (d)–(f) were transferred and redesignated as section 1833.]

[Sections 1817 and 1817A were transferred and redesignated as sections 1813 and 1814.]

* * * * * * *

[§ 1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975

[(a) Each veteran who served on active duty, any part of which occurred after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975, and who—

[(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable;

[(2) has served more than 180 days in active duty status and continues on active duty without a break therein; or

[(3) was discharged or released from such active duty for a service-connected disability;

shall be eligible for the housing loan benefits of this chapter, subject to the provisions of section 1802(a) of this title and the provisions of this section.

[(b) Any entitlement to the benefits of this section which had not expired as of October 23, 1970, and any entitlement to such benefits accruing after such date shall not expire until used.]

[Note: Section 1819 was transferred and redesignated as section 1812.]

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

* * * * * * *

§ 1829. Loan fee

(a) * * *

* * * * * * *

(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan to which section [1817A] *1814* of this chapter applies. The amount of the fee shall be equal to one-half of one percent of the balance of such loan on the date of the transfer of the property.

* * * * * * *

[§ 1832. Furnishing information to real estate professionals to facilitate the disposition of properties]

[Note: The provisions of section 1832 were transferred and redesignated as paragraphs (1) and (2) of section 1833(d).]

[Note: Subsections (a)–(c) of sections 1816 (a)–(c) were transferred and redesignated as section 1832.]

[§ 1816.] *§ 1832.* Procedure on default

(a)(1) In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section, pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed. If the Administrator makes such a payment, the Administrator shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty.

(2) Before suit or foreclosure the holder of the obligation shall notify the Administrator of the default, and within thirty days thereafter the Administrator may, at the Administrator's option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forebearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Administrator.

(3) The Administrator may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

(4)(A) Upon receiving a notice pursuant to paragraph (1) of this subsection, the Administrator shall—

(i) provide the veteran with information and, to the extent feasible, counseling regarding—

(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Administrator by means of a deed in lieu of foreclosure, and the actions authorized by [section 1816(a)(2) of this title;] *paragraph (2) of this subsection;* and

(II) what the Veterans' Administration's and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

(ii) advise the veteran regarding the availability of such counseling;

except with respect to loans made by a lender which the Administrator has determined has a demonstrated record of consistently providing timely and accurate information to veterans with respect to such matters.

(B) The Administrator shall, to the extent of the availability of appropriations, ensure that sufficient personnel are available to administer subparagraph (A) of this paragraph effectively and efficiently.

(C) The authority to carry out this paragraph shall terminate on March 1, 1991.

(b) With respect to any loan made under section 1811 which has not been sold as provided in subsection (g) of such section, if the Administrator finds, after there has been a default in the payment of any installment of principal or interest owing on such loan, that the default was due to the fact that the veteran who is obligated under the loan has become unemployed as the result of the closing (in whole or in part) of a Federal installation, the Administrator shall (1) extend the time for curing the default to such time as the Administrator determines is necessary and desirable to enable such veteran to complete payments on such loan, including an extension of time beyond the stated maturity thereof, or (2) modify the terms of such loan for the purpose of changing the amortization provisions thereof by recasting, over the remaining term of the loan, or over such longer period as the Administrator may determine, the total unpaid amount then due with the modification to become effective currently or upon the termination of an agreed-upon extension of the period for curing the default.

(c)(1) For purposes of this subsection—

(A) The term "defaulted loan" means a loan that is guaranteed under this chapter, that was made for a purpose described in section 1810(a) of this title, and that is in default.

(B) The term "liquidation sale" means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

(C) The term "net value", with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Administrator estimates the Administrator would incur (if the Administrator were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale, and other costs resulting from the acquisition and disposition of the property.

(D) Except as provided in subparagraph (D) of paragraph (10) of this subsection, the term "total indebtedness", with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date applicable under paragraph (10) of this subsection, and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by) regulations prescribed by the Administrator to implement this subsection associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

(B) This subsection does not apply to a case in which the Administrator proceeds under subsection (a)(2) of this section.

(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Administrator of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Administrator to implement this subsection.

(B) After receiving a notice described in subparagraph (A) of this paragraph, the Administrator shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net

value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

(A) the holder shall have the option to convey the property to the United States in return for payment by the Administrator of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebedness minus the net value of the property.

(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan either does not acquire the property securing the loan at the liquidation sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan—

(A) the Administrator may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (i) the amount of such total indebtedness, minus (ii) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale—

(A) the Administrator may accept conveyance of the property to the United States for a price not exceeding the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; and

(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6)(B) of this subsection.

(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter—

(A) the Administrator may not accept conveyance of the property from the holder of the loan; and

(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 1803(b) of this title. All determinations

under this subsection of net value and total indebtedness shall be made by the Administrator.

(10)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the **[**loan.**]** *loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection).*

(B)(i) Subject to division (ii) of this subparagraph, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forebearance at the request of the Administrator, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forebearance was requested and prior to the date of such sale, as the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

(ii) The Administrator may specify a date under subdivision (i) of this subparagraph only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Administrator is authorized, under paragraph *(5)(A) or* (7)(A) of this subsection, to accept conveyance of the property.

(C) In any case in which there is an excessive delay in such liquidation sale caused—

(i) by the Veterans' Administration (including any delay caused by its failure to provide bidding instructions in a timely fashion); or

(ii) by a voluntary case commenced under title 11, United States Code (relating to bankruptcy);

the date referred to in paragraph (1)(D)(ii) of this subsection shall be a date, earlier than the date of such liquidation sale, which the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

(D) For the purpose of determining the liability of the United States under a loan guaranty under clause (B) of paragraphs (5), (6), (7), and (8) of this subsection, the amount of the total indebtedness with respect to such loan guaranty shall include, in any case in which there was an excessive delay caused by the Veterans' Administration in the liquidation sale of the property securing such loan, any interest which has accrued as of the date of such sale and which would not be included, except for this subparagraph, in the calculation of such total indebtedness as a result of the specification of an earlier date under subparagraph (C)(i) of this paragraph.

(11) This subsection shall cease to have effect on October 1, 1989.

[Note: Sections 1816 (d)–(f) were transferred and redesignated as sections 1833 (a)–(c).]

§ 1833. Property management

[(d)**]** (*a*)(1) Of the number of purchases made during any fiscal year of real property acquired by the Administrator as the result of a default on a loan guaranteed under this chapter for a purpose described in section 1810(a) of this title, not more than 65 percent, nor less than 50 percent, of such purchases may be financed by a loan made by the Administrator. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any fiscal year if the Administrator determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

(2) In carrying out paragraph (1) of this subsection, the Administrator, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans made by the Administrator to finance purchases of real property from the Administrator described in that paragraph.

(3) The Administrator may sell any note securing such a loan—

(A) with recourse; or

(B) without recourse but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.

(4)(A) Except as provided in subparagraph (B) of this paragraph, the amount of a loan made by the Administrator to finance the purchase of real property from the Administrator described in paragraph (1) of this subsection may not exceed an amount equal to 95 percent of the purchase price of such real property.

(B)(i) The Administrator may waive the provisions of subparagraph (A) of this paragraph in the case of any loan described in paragraph (5) of this subsection.

(ii) A loan described in subparagraph (A) of this paragraph may, to the extent the Administrator determines to be necessary in order to market competitively the property involved, exceed 95 percent of the purchase price.

(5) The Administrator may include, as part of a loan to finance a purchase of real property from the Administrator described in paragraph (1) of this subsection, an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

(6) This subsection shall cease to have effect on October 1, 1990.

[(e)**]** *(b)* The Administrator may not make a loan to finance a purchase of property acquired by the Administrator as a result of a default on a loan guaranteed under this chapter unless the purchaser meets the credit underwriting standards established under section 1810(g)(2)(A) of this title.

[(f)**]** *(c)*(1) The administrator shall identify and compile information on common factors which the Administrator finds contribute to foreclosures on loans guaranteed under this chapter.

(2) The Administrator shall include a summary of the information compiled, and the Administrator's findings, under paragraph (1) of this subsection in the annual report submitted to the Congress under section 214 of this title. As part of such summary and findings, the Administrator shall provide a separate analysis of the factors which contribute to foreclosures of loans which have been assumed.

[Note: The provisions of section 1832 were transferred and redesignated as paragraphs (1) and (2) of section 1833(d).]

[(a)] *(d)(1)* The Administrator shall furnish to real estate brokers and other real estate sales professionals information on the availability of real property for disposition under this chapter and the procedures used by the Veterans' Administration to dispose of such property.

[(b)] *(2)* For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter, the Administrator shall list all such property with real estate brokers under such arrangements as the Administrator determines to be most appropriate and cost effective.

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CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

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§ 1902. Assistance for providing automobile and adaptive equipment

(a) The Administrator, under regulations which the Administrator shall prescribe, shall provide or assist in providing an automobile or other conveyance to each eligible person by paying the total purchase price of the automobile or other conveyance (including all State, local, and other taxes) or [$5,000], *$5,500,* whichever is the lesser, to the seller from whom the eligible person is purchasing under a sales agreement between the seller and the eligible person.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 51—APPLICATIONS, EFFECTIVE DATES, AND PAYMENTS

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SUBCHAPTER II—EFFECTIVE DATES

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§ 3013. Effective dates of educational benefits

Effective dates relating to awards under chapters 30, 31, *32,* 34, and 35 of this title shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

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SUBCHAPTER I—ORGANIZATION; GENERAL

§ 4101. Function of Department

(a) * * *

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(c)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to contribute to the Nation's knowledge about disease and disability, the Administrator shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research (including biomedical, [prosthetic, and health care services research,] *mental illness, prosthetic and other rehabilitative, and health-care-services research* and stressing research into [spinal cord] *spinal-cord* injuries and *other* diseases [and other disabilities] that lead to paralysis of the lower [extremities).] *extremeties and research into injuries and illnesses particularly related to service).* In carrying out such research programs, the Administrator shall act in cooperation with the entities described in subsection (b) of this section.

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§ 4104. Additional appointments

There shall be appointed by the Administrator additional personnel as the Administrator may find necessary for the medical care of veterans, as follows:

(1) Physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries;

(2) [Pharmacists, psychologists (other than those described in paragraph (3)), occupational therapists,] *Psychologists (other than those described in paragraph (3) of this section),* dietitians, and other scientific and professional personnel, such as microbiologists, chemists, biostatisticians, and medical and dental technologists; and

(3) Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified or registered respiratory therapists, licensed physical therapists, [and] licensed practical or vocational [nurses.] *nurses, pharmacists, and occupational therapists.*

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§ 4106. Period of appointments; promotions

(a) * * *

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(g)(1) * * *

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(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title.

§ 4107. Grades and pay scales

[(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

[SECTION 4103 SCHEDULE

[Chief Medical Director, $68,909.

[Deputy Chief Medical Director, $66,104.

[Associate Deputy Chief Medical Director, $63,315.

[Assistant Chief Medical Director, $61,449.

[Medical Director, $52,429 minimum to $59,421 maximum.

[Director of Nursing Service, $52,429 minimum to $59,421 maximum.

[Director of Podiatric Service, $42,756 minimum to $56,692 maximum.

[Director of Chaplain Service, $44,756 minimum to $56,692 maximum.

[Director of Pharmacy Service, $44,756 minimum to $56,692 maximum.

[Director of Dietetic Service, $44,756 minimum to $56,692 maximum.

[Director of Optometric Service, $44,756 minimum to $56,692 maximum.]

(a) The annual rates of ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.

(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be [as follows:] *prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:*

PHYSICIAN AND DENTIST SCHEDULE

Director [grade, $44,756 minimum to $56,692 maximum.] *grade.*

Executive [grade, $41,327 minimum to $53,729 maximum.] *grade.*

Chief [grade, $38,160 minimum to $49,608 maximum.] *grade.*

Senior [grade, $32,442 minimum to $42,171 maximum.] *grade.*

Intermediate [grade, $27,453 minimum to $35,688 maximum.] *grade.*

Full [grade, $23,087 minimum to $30,017 maximum.] *grade.*

Associate [grade, $19,263 minimum to $25,041 maximum.] *grade.*

NURSE SCHEDULE

Director [grade, $38,160 minimum to $49,608 maximum.] *grade.*

Assistant Director [grade, $32,442 minimum to $42,171 maximum.] *grade.*

Chief [grade, $27,453 minimum to $35,688 maximum.] *grade.*

Senior [grade, $23,087 minimum to $30,017 maximum.] *grade.*

Intermediate [grade, $19,263 minimum to $25,041 maximum.] *grade.*

Full [grade, $15,920 minimum to $20,699 maximum.] *grade.*

Associate [grade, $13,700 minimum to $17,813 maximum.] *grade.*

Junior [grade, $11,712 minimum to $15,222 maximum.] *grade.*

CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

Chief [grade, $38,160 minimum to $49,608 maximum.] *grade.*

Senior [grade, $32,442 minimum to $42,171 maximum.] *grade.*

Intermediate [grade, $27,453 minimum to $35,688 maximum.] *grade.*

Full [grade, $23,087 minimum to $30,017 maximum.] *grade.*

Associate [grade, $19,263 minimum to $25,041 maximum.] *grade.*

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(c)(1) * * *

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(3) Notwithstanding the provisions of section 4101(e) of this title, any person to whom paragraph (1) of this subsection applies *and any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title* shall be deemed to be a career appointee for the purpose of sections 4507 and 5384 of title 5.

(d) Notwithstanding any other provision of law, and except as provided in [section] *sections* 4118 *and 4120* of this title, pay may not be paid at a rate in excess of the rate of basic pay for an appropriate level authorized by section 5314, 5315, or 5316 of title 5 for positions in the Executive Schedule, as follows:

(1) Level III for the Chief Medical Director;

(2) Level IV for the Deputy Chief Medical Director; and

(3) Level V for all other positions for which such basic pay is paid under this section.

(e)(1) * * *

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(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight [Saturday] *Friday* and ending at midnight Sunday, shall receive additional pay for each hour of service on such tour at a rate equal to 25 percent of such nurse's hourly rate of basic pay.

* * * * * * *

(10)(A) Notwithstanding any other provision of law [but] *and* subject to [subparagraphs] *subparagraph* (B) [and (C)] of this paragraph, [if] the Administrator *may increase the rates of addi-*

tional pay authorized under paragraphs (2) through (8) of this subsection if the Administrator determines *that* it [to be] *is* necessary *to do so* in order to obtain or retain the services of [nurses, the Administrator—] *nurses.*

[(i) may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection; and

[(ii) may extend the period for which additional pay authorized under paragraph (3) of this subsection is paid to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.]

(B) An increase under subparagraph (A)[(i)] of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic areas as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

[(C)(i) An extension under subparagraph (A)(ii) of this paragraph of the period for which additional pay may be paid under paragraph (3) of this subsection may be made on a nationwide, local, or other geographic basis. Any such extension shall be based on a determination by the Administrator that such extension is justified on the basis of a review of the need for such extension in such geographic area.

[(ii) The rates of additional pay payable pursuant to an extension under such subparagraph shall be established as a percentage of the applicable hourly rates of basic pay. Such rates of additional pay may not exceed the lesser of (I) the percentage of such hourly rates of basic pay that the Administrator determines is necessary to be paid within the geographic area involved in order to obtain or retain the services of nurses, and (II) the percentage provided for in paragraph (3) of this subsection of the applicable hourly rate of basic pay.]

(f) Physician assistants and expanded-function dental auxiliaries shall be compensated by use of Nurse Schedule grade titles and related pay ranges and shall be entitled to additional pay on the same basis as provided for nurses in subsection (e) of this section. Notwithstanding any other provision of law, when the Administrator determines it to be necessary in order to obtain or retain the services of certified or registered respiratory therapists, licensed physical therapists, [or] licensed practical or vocational nurses, *pharmacists, or occupational therapists,* the Administrator may, on a nationwide, local, or other geographic basis, pay persons employed in such positions additional pay on the same basis as provided for nurses in subsection (e) of this section. The Administrator shall prescribe by regulation standards for compensation and payment under this subsection.

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(j)(1) The Administrator may pay an employee to whom this subsection applies pay at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

(2) This subsection applies to an employee who meets each of the following criteria:

(A) The employee is employed in a position listed in paragraph (3) of section 4104 of this title or meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

(B) The employee is employed in a work unit for which on-call premium pay is authorized.

(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

(3) An employee who is eligible for on call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.

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§ 4112. Special medical advisory group and other advisory bodies

(a) * * *

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(b) In each case where the Administrator has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization, for the training or education of health manpower, the Administrator shall establish an advisory committee (that is [deans] *dean's* committee, medical advisory committee or the like). Such advisory committee shall advise the Administrator and the Chief Medical Director with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed and may be established on an institution-wide, multidisciplinary basis or on a regional basis whenever such is found to be feasible. Members of each such advisory committee shall be appointed by the Administrator and shall include personnel of the Veterans' Administration (including appropriate representation from the full-time staff) and of the entity with which the Administrator has entered into such contract or agreement. The number of members and terms of members of each advisory committee shall be prescribed by the Administrator.

(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.

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§ 4114. Temporary full-time, part-time, and without compensation appointments; residencies or internships

(a)(1) * * *

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[(d) The Chief Medical Director may waive for the purpose of appointments under this section the requirements of section 4105(a) of this title that the licensure of a physician, dentist, podiatrist, psychologist, or optometrist, or the registration of a nurse must be in a "State", if—

[(1) in the case of a physician, dentist, podiatrist, psychologist, or optometrist, the person is to be used on a research or an academic post or where there is no direct responsibility for the care of patients; or

[(2) in any case, where the person is to serve in a country other than the United States and such person's licensure or registration is in the country in which the person is to serve.]

(d)(1) Subject to Paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

(B) that the licensure or certification of such an individual be in a State; and

(C) that a psychologist have completed an internship.

(2) The waivers authorized in paragraph (1) of this subsection may be granted—

(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.

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§ 4116. Defense of certain malpractice and negligence suits

(a) * * *

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(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.

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§ 4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health-care facility that is designated by the Administrator as a health-care facility with a significant shortage in registered nurses in any clinical service.

(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

(A) $2,000 per year, in the case of an agreement for two years,

(B) $3,000 per year, in the case of an agreement for three years, and

(C) $4,000 per year, in the case of an agreement for four years.

(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service

is completed throughout the period of obligated service specified in the agreement.

(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purpose of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under section 4118 of this title), if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an agreement under this section with a registered nurse and such an agreement.

(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

(h) The Administrator shall prescribe regulations to carry out this section.

SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

* * * * * * *

§ 4132. Confidentiality of certain medical records

(a)*(1)* Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, *infection with the human immunodeficiency virus,* or sickle cell anemia which is carried out by or for the Veterans' Administration under this title shall, except as provided in [subsection (e)] *subsections (e) and (f)* of this section, be confidential, and (section 3301 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.

(b)(1) The content of any record referred to in subsection (a) of this section may be disclosed by the Administrator in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the [Administrator pursuant to section 4134 of this title.] *Administrator.*

(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed by the Administrator as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

(C)(i) In the case of any record which is maintained in connection with performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative or such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.

[(C)] *(D)* If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

* * * * * * *

(c) Except as authorized by a court order granted under subsection (b)(2)**[**(C)**]***(D)* of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

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(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

(B) A disclosure under such paragraph (1) may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

[(f)**]***(g)* Any person who violates any provision of this section or any regulation issued pursuant to this section shall be **[**fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.**]** *fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.*

[§ 4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities

[Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans' Administration health care facility. The Administrator, pursuant to the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers.]

§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title.

[§ 4134. Coordination; reports

[(a) Regulations prescribed pursuant to section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title, shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations governing—

[(1) human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act, as amended (Public Law 93-348; 88 Stat. 348), and

[(2)(A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4551 et seq.), and the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.),

to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title. Such regulations may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title) as are necessary to prevent circumvention or evasion thereof, or to facilitate compliance therewith. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services, and, as appropriate, the President (or the delegate of the President), in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they and the Administrator prescribe.

[(b) Not later than sixty days after the effective date of this subsection, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to subsection (a) of this section. Such report shall include (1) an explanation of any inconsistency between such regulations and the regulations of the Secretary referred to in such subsection (a); (2) an account of the extent, substance, and results of consultations with the Secretary (or Director, as appropriate) respecting the prescribing and implementation of the Administrator's regulations; and (3) such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. The Administrator shall timely publish such report in the Federal Register.]

§ 4134. Regulations

(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

(b) The regulations referred to in subsection (a) of this section are—

(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Administrator prescribe.

SUBCHAPTER IV—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

[§ 4141. Establishment of program; purpose; duration

[(a) There is hereby established a program to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this subchapter referred to as the "Scholarship Program"). The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans' Administration and for the Nation and, if needed by the Veterans' Administration, other health-care professionals appointed under subchapter I of this chapter.

[(b) The Administrator may not furnish scholarships to new participants in the Scholarship Program after the last day of the tenth fiscal year beginning after the first such scholarship is approved by the Administrator.

[§ 4142. Eligibility; application; written contract

[(a) To be eligible to participate in the Scholarship Program, an individual must—

[(1) be accepted for enrollment, or be enrolled, as a student (A) in an accredited (as determined by the Administrator) educational institution in a state, and (B) in a course of training offered by such institution and approved by the Administrator, leading to a degree in medicine, osteopathy, dentistry, podiatry, optometry, or nursing or a course of training to become a physician assistant or expanded-function dental auxiliary;

[(2) submit an application to the Administrator for participation in the Scholarship Program;

[(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of a scholarship and to serve a period of obigated service as provided in section 4143 of this title; and

[(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

To be accepted as a participant in the Scholarship Program, an individual must be accepted for enrollment or be enrolled (as described in clause (1) of this subsection) as a full-time student, except that an individual who is a Veterans' Administration employee described in subsection (g)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of this subsection) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

[(b)(1) In distributing application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Administrator shall include with such forms—

[(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4144 of this title if the individual breaches the contract; and

[(B) a full description of the terms and conditions that would apply to the individual's participation in the Scholarship Program and service in the Department of Medicine and Surgery.

[(2) The Administrator shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

[(c)(1) In selecting applicants for acceptance in the Scholarship Program, the Administrator shall give priority to the applications of individuals who have previously received scholarships under the Scholarship Program.

[(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than 60 days before awarding such scholarship, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

[(d)(1) An individual becomes a participant in the Scholarship Program only upon the Administrator's approval of the individual's application submitted under subsection (a)(2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a)(3) of this section.

[(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Scholarship Program.

[(e) The written contract (referred to in this subchapter) between the Administrator and a participant in the Scholarship Program shall contain—

[(1) an agreement that—

[(A) subject to clause (2) of this subsection, the Administrator agrees (i) to provide the participant with a scholarship (described in subsection (f) of this section) for from one to four school years (or in a case in which an extension is granted under subsection (g)(3) of this section, the number of school years provided for as a result of such extension) during which period the participant is pursuing a course of training described in subsection (a)(1)(B) of this section, and (ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

[(B) subject to clause (2) of this subsection, the participant agrees—

[(i) to accept such a scholarship;

[(ii) to maintain enrollment and attendance in a course of training described in subsection (a)(1)(B) of this section until the participant completes the course of training;

[(iii) while enrolled in such course of training, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

[(iv) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the "period of obligated service") equal to the greater of—

[(I) one calendar year for each school year for which the participant was provided a scholarship under the Scholarship Program (or, in the case of a participant who is a part-time student, six months for each calendar year, or part of a calendar year, for which the participant was provided a scholarship, with an academic semester or quarter to be counted in only one calendar year), or

[(II) two calendar years (or, in the case of participant who is a part-time student, one calendar year);

[(v) if the participant's period of obligated service is deferred under section 4143(b)(3)(A) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4143(b)(4)(B) of this title; and

[(vi) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility;

[(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subchapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subchapter;

[(3) a statement of the damages to which the United States is entitled under section 4144 of this title for the participant's breach of the contract; and

[(4) such other statements of the rights and liabilities of the Administrator and of the participant as may be appropriate and consistent with the provisions of this subchapter.

[(f)(1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

[(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

[(i) the tuition of the participant in such school year; and

[(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

[(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with paragraph (3) of this subsection) for each of the 12 consecutive months beginning with the first month of such school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (g)(2) of this section.

[(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A) of this subsection. Payment to such an educational institution may be made without regard to subsections (a) and (b) of section 3324 of title 31.

[(3) The maximum amount of the monthly stipend, specified in paragraph (1)(B) of this subsection and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1980, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rate of pay under the General Schedule made effective in the fiscal year in which such school year ends.

[(g)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of this section and on the date on which such individual becomes a participant in the Scholarship Program.

[(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

[(A) the maximum amount of the stipend payable to such participant under subsection (f)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

[(B) a stipend may not be paid to such participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

[(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of six school years if the Administrator determines that such an extension would be in the best interest of the United States.

[(h) Notwithstanding any other provision of law, participants in the Scholarship Program shall not by virtue of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

[(i) The Administrator shall report of Congress not later than March 1 of each year—

[(1) the number of students receiving scholarships under the Scholarship Program and the number of students enrolled in each type of health profession training;

[(2) the educational institutions providing such training;

[(3) the number of applications filed, by health profession category, under this section during the school year beginning in such year and the total number of such applications so filed for all years in which the Scholarship Program has been in existence;

[(4) the number of scholarships accepted, by health profession category, during such school year and the number, by health profession category, which were offered and not accepted; and

[(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

[(j) The Administrator shall prescribe regulations to carry out the Scholarship Program.]

[§ 4143. Obligated service

[(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4142 of this title.

[(b)(1) Not later than 60 days prior to the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program who is a full-time student or the date described in paragraph (5) of this subsection with respect to a participant who is a part-time student, the Administrator shall notify the participant of the date described in such paragraph for the beginning of such participant's period of obligated service.

[(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

[(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

[(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.

[(3)(A)(i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

[(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

[(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the later of (i) the date upon which the participant completes such participant's course of training, or (ii) the date upon which the participant becomes registered as a graduate nurse in a state.

[(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

[(4) Any participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection—

[(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veteran's Administration health-care facility; and

[(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

[(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

[(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

[(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

[(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

[(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (a) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

[(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

[(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

[(3) For the purposes of this subsection, the term "course completion date" means the date on which a participant in the Scholarship Program completes such participant's course of training under the program.

[§ 4144. Breach of contract; liability; waiver

[(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4142 of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

[(b) A participant in the Scholarship Program who—

[(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator),

[(2) is dismissed from such educational institution for disciplinary reasons,

[(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training,

[(4) fails to become licensed to practice medicine, ostseopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduate nurse in a State, or fails to meet any applicable licensure requirement in the case of a physician assistant or expanded-function dental auxiliary, during a period of time determined under regulations prescribed by the Administrator, or

[(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility, in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

[(c) If a participant in the Scholarship Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$\left[\quad A=3\Phi\left(\frac{t-s}{t}\right)\right.$$

in which "A" is the amount the United States is entitled to recover; "Φ" is the sum of the amounts paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4143(b)(4)(B) of this subchapter; and "s" is the number of months of such period served by the participant in accordance with section 4143 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

[(d)(1) Any obligation under the Scholarship Program (or a written contract thereunder) of a participant in the Scholarship Program for service or payment of damages shall be canceled upon the death of the participant.

[(2) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program (or a contract thereunder) whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.

[(3) Any obligation of a participant under such Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date that payment of such damages is due.

[(e) The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—

[(1) any period of obligated service required to be performed under this subchapter to be performed in another Federal department or agency or in the Armed Forces; and

[(2) any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery.

[§ 4145. Exemption of scholarship payments from taxation

[Notwithstanding any other law, any payment to, or on behalf of a participant in the Scholarship Program for tuition, education expenses, or a stipend under this subchapter shall be exempt from taxation.

[§ 4146. Program subject to availability of appropriations

[The authority of the Administrator to make payments under this subchapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.]

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SUBCHAPTER VI—RESEARCH CORPORATIONS

§ 4161. Authority to establish; status

(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

(b) If by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

§ 4162. Purpose of corporations

Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.

§ 4163. Board of directors; executive director

(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

(2) subject to subsection (c) of this section, members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research.

(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

§ 4164. General powers

(a) A corporation established under this subchapter may—

(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and

(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

§ 4165. Applicable State law

Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

§ 4166. Accountability and oversight

(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator.

(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans' Administration with respect to which the Inspector General of the Veterans' Administration has responsibilities under such Act.

(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Administrator for that year.

(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year—

(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

(d) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

§ 4167. Report to Congress

Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

§ 4168. Expiration of authority

No corporation may be established under this subchapter after September 30, 1991.

CHAPTER 75—VETERANS' CANTEEN SERVICE

Sec.
4201. Purpose of Veterans' Canteen Service.
4202. Duties of Administrator with respect to Service.
4203. Operation of Service.
4204. Financing of Service.
4205. Revolving fund.
4206. Budget of Service.
4207. Audit of accounts.
4208. Service to be independent unit.
4209. Child-care centers.
4210. Exemption from personnel ceilings.

* * * * * * *

§ 4205. Revolving fund

The revolving fund shall be deposited in a checking account with the Treasury of the United States. Such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various canteens may be deposited in checking accounts *or other interest-bearing accounts* in other depositaries selected by the Administrator.

§ 4206. Budget of Service

The Service shall prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, which shall contain an estimate of the needs of the Service for the ensuing fiscal year including an estimate of the amount required to restore any impairment of the revolving fund resulting from operations of the current fiscal year. [Any balance in the revolving fund at the close of the fiscal year in excess of the estimated requirements for the ensuing fiscal year shall be covered into the Treasury as miscellaneous receipts.]

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§ 4209. Child-care centers

(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title.

(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

(d) The Administrator shall prescribe regulations to carry out this section.

(e) For the purpose of this section, the term "parent advisory committee" means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.

§ 4210. Exemption from personnel ceilings

Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be applied to employees of the Veterans' Administration by the President or an official of the executive branch.

CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

SUBCHAPTER I—GENERAL

Sec.

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4302. Eligibility.
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SUBCHAPTER I—GENERAL

§ 4301. Establishment of program; purpose

(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the "Educational Assistance Program"). The program consists of—

(1) the scholarship program provided for in subchapter II of this chapter, and

(2) the tuition reimbursement program provided for in subchapter III of this chapter.

(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

§ 4302. Eligibility

(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

§ 4303. Application and acceptance

(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is ac-

cepted) by the Administrator, including a clear explanation of the damages to which the United States is entitled if the individual breaches the agreement.

(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

§ 4304. Terms of agreement

An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

(1) The Administrator's agreement—

(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

(2) The participant's agreement—

(A) to accept such educational assistance;

(B) to maintain enrollment and attendance in the course of training until completed;

(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

SUBCHAPTER II—SCHOLARSHIP PROGRAM

§ 4311. Authority for program

As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter. The program shall be known as the Veteran's Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

§ 4312. Eligibility; application; agreement

(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.

(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the "period of obligated service") of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

(3) In the case of a participant who is a part-time student—

(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

§ 4313. Scholarship

(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) and 4314(2) of this title.

(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

§ 4314. Part-time students

In the case of a participant who is a part-time student—

(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

§ 4315. Status of participants

Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

§ 4316. Obligated service

(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

(2) As soon as possible after the participant's service commencement date, the Administrator shall—

(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the

participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necesssary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

(3) For the purposes of this section, the term "course completion date" means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

§ 4317. Breach of agreement; liability

(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

(2) The participant is dismissed from such educational institution for disciplinary reasons.

(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator.

(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veter-

ans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

(A) "A" is the amount the United States is entitled to recover.

(B) "F" is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(C) "t" is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

(D) "s" is the number of months of such period served by the participant in accordance with section 4313 of this title.

(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

§ 4318. Expiration of program

The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

§ 4321. Authority for program

As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Administration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

§ 4322. Eligibility; application; agreement

(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading

toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4304 of this title) contain the following:

(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

(2) The participant's agreement—

(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year (adjusted in accordance with section 4331 of this title).

(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

§ 4323. Obligated service

(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of such participant entered into under section 4303 of this title.

(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

(d) In the case of a participant whose tuition was paid pursuant to section 4322(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

(e) For the purposes of this section, the term "course completion date" means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

§ 4324. Breach of agreement; liability

(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement.

(b)(1) If a participant in the Tuition Reimbursement Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

(A) "A" is the amount the United States is entitled to recover.

(B) "F" is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maxi-

mum legal prevailing rate, as determined by the Treasurer of the United States.

(C) "t" is the total number of months in the participant's period of obligated service.

(D) "s" is the number of months of such period served by the participant in accordance with section 4323 of this title.

(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

§ 4325. Allocation and distribution of funding

In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for that fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

SUBCHAPTER IV—ADMINISTRATIVE MATTERS

§ 4331. Periodic adjustments in amount of assistance

(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rate of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

(b) For purposes of this section:

(1) The term "maximum monthly stipend amount" means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

(2) The term "maximum tuition reimbursement amount" means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

(3) The term "general Federal pay increase" means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

§ 4332. Annual report

Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the num-

bers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

(2) The education institutions providing such training to students in each program.

(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted.

(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

§ 4333. Regulations

The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

§ 4334. Breach of agreement; waiver of liability

(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

(b) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States.

(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

§ 4335. Service in other agencies

(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

§ 4336. Exemption of educational assistance payments from taxation

Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

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SUBCHAPTER II—PROCUREMENT AND SUPPLY

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SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

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§ 5004. Congressional approval of certain medical facility acquisitions

(a)(1) * * *

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[(2) After the adoption by the committees during a fiscal year of resolutions with identical texts approving major medical facility projects, it shall not be in order in the House of Representatives or in the Senate to consider a bill, resolution, or amendment making an appropriation for that fiscal year or for the next fiscal year which may be expended for a major medical facility project—

[(A) if the project for which the appropriation is proposed to be made is not approved in those resolutions; or

[(B) in the event that the project is approved in the resolutions, if either—

[(i) the bill, resolution, or amendment making the appropriation does not specify—

[(I) the medical facility project for which the appropriation is proposed to be made; and

[(II) the amount proposed to be appropriated for the project; or

[(ii) the amount proposed to be appropriated for the project (when added to any amount previously appropriated for the project) exceeds the amount approved for the project.]

(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.

[(3) No appropriation may be made for the lease of any space for use as a medical facility at an average annual rental of more than $500,000 unless each committee has first adopted a resolution approving such lease and setting forth the estimated cost thereof.

[(4) For the purpose of this subsection, the term major medical facility project means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000. Such term does not include an acquisition by exchange.]

(3) For the purpose of this subsection:

(A) The term "major medical facility project" means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

(B) The term "major medical facility lease" means a lease for space for use as a medical facility at an average annual rental of more than $500,000.

* * * * * * *

[(c) The estimated cost of any construction, alteration, lease, or other acquisition that is approved under this section, as set forth in the pertinent resolutions described in subsection (a) of this section, may be increased by the Administrator in the contract for such construction, alteration, lease, or other acquisition by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction, alteration, lease, or other acquisition costs, as the case may be, from the date of such approval to the date of contract, but in no event may the amount of such increase exceed 10 per centum of such estimated cost.]

(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.

[(d) In the case of any medical facility approved for construction, alteration, lease, or other acquisition by each committee under subsection (a) of this section for which funds have not been appropriated within one year after the date of such approval, either such committee may by resolution rescind its approval at any time thereafter before such funds are appropriated.]

[(e)] *(d)* In any case in which the Administrator proposes that funds be used for a purpose other than the purpose for which such funds were appropriated, the Administrator shall promptly notify each committee, in writing, of the particulars involved and the reasons why such funds were not used for the purpose for which appropriated.

[(f)] *(e)* The Administrator may accept gifts or donations for any of the purposes of this subchapter.

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§5010. Operation of medical facilities

(a)(1) * * *

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(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

(B) For purposes of subparagraph (A) of this paragraph, the term "temporary research personnel" means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.

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(c)(1) * * *

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(2) The Administrator may enter into a contract under the circumstances described in paragraph (1)(B) of this subsection only if *responsive bids are received from at least two responsible, financially autonomous bidders and* the Administrator determines—

(A) based on the study described in paragraph (4) of this subsection with respect to the activity involved, that the cost to the Government of the performance of such activity under such a contract over the first five years of such performance (including the cost to the Government of conducting the study) would be lower by 15 percent or more than the cost of performance of such activity by Federal employees; and

(B) that the quantity and quality of health-care services provided to eligible veterans by the Veterans' Administration at the facility at which the activity is carried out would be maintained or enhanced as a result of such a contract.

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§ 5016. Nursing home revolving fund

(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) or nursing home facilities and may be made only as provided for in appropriation Acts.

(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.

SUBCHAPTER II—PROCUREMENT AND SUPPLY

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§ 5022. Authority to procure and dispose of property and to negotiate for common services

(a)(1) * * *

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[(2)(A) Before entering into a transaction described in subparagraph (B) of this paragraph with respect to any real property owned by the United States and administered by the Veterans' Administration which has an estimated value in excess of $50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committees on Veterans' Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 180 days from the date upon which the report is submitted.

[(B) Subparagraph (A) of this paragraph applies to (i) any transfer of an interest in real property to another Federal agency or to a State (or any political subdivision of a State), and (ii) any report to a Federal disposal agency of excess real property.

[(C) A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.]

(2)(A) The Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

(B) Real property described in this subparagraph is real property that is owned by the United States and administered by the Veterans' Administration and that has an estimated value in excess of $50,000.

(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.

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§ 5025. Procurement of health-care items

(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure health-care items under local contracts.

(b)(1) A health-care item for use by the Veterans' Administration may be procured under a local contract if—

(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

(B)(i) the item is not otherwise available to the Veterans' Administration medical center concerned,

(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribed, or

(iii) procurement under a local contract is demonstrably more cost-effective for the item.

(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such health-care items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items.

(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may not be delegated.

(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for use by the Veterans' Administration.

(d)(1) Not later than December 1 of each year, the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

(2) Not later than February 1 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

(e) For the purposes of this section:

(1) The term "health-care item" includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, or 73. Such term does not include perishable items.

(2) The term "local contract" means a contract entered into by a Veterans' Administration medical center for procurement of an item for use by that medical center.

(3) The term "emergency procurement" means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for a item.

SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY, NURSING HOME, AND HOSPITAL CARE

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§ 5035. Applications with respect to projects; payments

(a) * * *

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(b)(1) * * *

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(4) The Administrator shall establish a list of approved [projects,] *projects (including projects that have been conditionally approved under paragraph (6) of this subsection),* in the order of their priority, as of [July 1] *August 15* of each year. The Administrator shall award grants in the order of their priority on the list during the fiscal year beginning on October 1 of the calendar year in which the list was made.

* * * * * * *

(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 90 days after the date of the conditional approval, specified by the Administrator.

(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grade initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.

* * * * * * *

ACT OF MARCH 4, 1923

AN ACT For the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes.

* * * * * * *

SEC. 13. (a) There is hereby established in the Treasury an account to be known as the "Foreign Currency Fluctuations, American Battle Monuments Commission, Account". The account shall be used to provide funds, in addition to funds appropriated for salaries and expenses of the American Battle Monuments Commission, to pay the costs of such salaries and expenses that exceed the amount appropriated therefor as a result of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The account may not be used for any other purpose. As and when necessary to use funds in the account to pay such costs, such funds shall be transferred to funds appropriated for salaries and expenses of the Commission.

(b) Funds transferred under subsection (a) to appropriations shall be merged with and available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of funds the Commission may obligate in any fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

(c) An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A chance reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

(d) Funds transferred from the Foreign Currency Fluctuations, American Battle Monuments Commission, Account may be transferred back to that account—

(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for salaries and expenses have been made available to the Commission, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, American Battle Monuments Commission, Account, to be merged with and available for the same period and purposes as that account.

(g) The Commission shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.

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VETERANS' HEALTH CARE AMENDMENTS OF 1979

(Public Law 96-22, June 13, 1979)

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TITLE II—CONTRACT-CARE PROGRAMS

DEFINITION OF "VETERANS' ADMINISTRATION FACILITIES"

SEC. 201. (a) * * *

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[(b) Not later than February 1, 1980, and annually thereafter, the Chief Medical Director of the Veterans' Administration shall submit to the appropriate committees of the Congress, through the Administrator of Veterans' Affairs, a full report on the implementation of section 601(4)(C)(v) of title 38, United States Code, and the amendments made by this section, and on the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38, United States Code) in the categories described in the following provisions of such title: sections 601(4)(C), 610(a), 612(a), 612(f)(1)(A), 612(f)(1)(B), 612(f)(2), 612(g), 612A (as added by section 103(a)(1) of this Act), the third sentence of section 612(f) (as added by section 102(b)(2) of this Act), and section 620A (as added by section 104(a) of this Act).]

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CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1983

(Public Law 97-377, December 21, 1982)

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TITLE V—GENERAL PROVISIONS

* * * * * * *

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

* * * * * * *

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SPECIAL ASSISTANCE FUNCTIONS FUND

* * * * * * *

(INCLUDING TRANSFER OF FUNDS)

* * * * * * *

SEC. 156. (a)(1) The head of the agency shall pay each month an amount determined under paragraph (2) to a person—

(A) who is the surviving spouse of a member or former member of the Armed Forces described in subsection (c);

(B) who has in such person's care a child of such member or former member who has attained sixteen years of age but not eighteen years of age and is entitled to a child's insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) for such [month;] *month or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code;* and

* * * * * * *

(C) who is not entitled for such month to a mother's insurance benefit under section 202(g) of the Social Security Act (42 U.S.C. [402(g))] *402(g)), or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code,* by reason of having such child (or any other child of such member or former member) in her care.

* * * * * * *

VETERANS' HEALTH CARE AMENDMENTS OF 1983

(Public Law 98-160, November 21, 1983)

* * * * * * *

TITLE I—VETERANS' ADMINISTRATION HEALTH-CARE PROGRAMS

* * * * * * *

ADULT DAY HEALTH-CARE SERVICES

SEC. 103. (a)(1) * * *

* * * * * * *

[(b) If the Administrator of Veterans' Affairs furnishes adult day health care under section 620(f) of title 38, United States Code (as added by subsection (a)), the Administrator shall conduct a study of the medical efficacy and cost-effectiveness of furnishing such care as an alternative for nursing home care and of the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator and through facilities that are under the direct jurisdiction of the Administrator.

[(c) Not later than February 1, 1988, the Administrator shall submit to the Committee on Veterans' Affairs of the Senate and House of Representatives a report containing—

[(1) the results of the study conducted under subsection (b) (if such a study is conducted);

[(2) the Administrator's recommendation with respect to extending or repealing the date in subsection (f)(3) of section 620 of title 38, United States Code (as added by subsection (a)); and

[(3) any other recommendation that the Administrator considers appropriate for legislative and administrative action with respect to the furnishing of such care.]

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CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

(Public Law 99-272, April 7, 1986)

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TITLE XIX—VETERANS' PROGRAMS

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Subtitle B—Miscellaneous Provisions

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SEC. 19032. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) * * *

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(b) DUTIES.—The Committee shall examine and evaluate programs and other activities of the Veterans' Administration with respect to the needs of veterans who are Native Americans, including American [Indians and] *Indians,* Alaska [Natives.] *Natives, and Native Hawaiians.* Such examination and evaluation shall include—

(1) an assessment of the needs of such veterans with respect to health care, rehabilitation, readjustment counseling, outreach services, and other benefits and services under programs administered by the Veterans' Administration; and

(2) a review of the manner in which and the extent to which the programs and other activities of the Veterans' Administration meet such needs.

(c) MEMBERS.—The Committee shall consist of—

(1) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(2) the Chief Medical Director and Chief Benefits Director of the Veterans' Administration or their representatives; and

(3) members appointed by the Administrator from the general public, including—

(A) representatives of veterans who are Native Americans, including American [Indians and] *Indians,* Alaska [Natives] *Natives, and Native Hawaiians,* and such veterans with service-connected disabilities; and

(B) individuals who are recognized authorities in fields pertinent to the needs of such veterans, including the specific health-care needs of such veterans and the furnishing of health-care services by the Veterans' Administration to such veterans.

* * * * * * *

(f) Reports.—(1) Not later than February 1, 1987, [and] February 1, 1988, *and February 1, 1989,* the Committee shall submit to the Administrator a report containing the findings and any recommendations of the Committee regarding the matters described in subsection (b) that were examined and evaluated by the Committee during the preceding fiscal year.

* * * * * * *

[(g) Alaska Native Defined.—For the purposes of this section, the term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).]

(g) Definitions.—For the purposes of this section:

(1) The term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) The term "Native Hawaiian" has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

(h) Termination.—The Committee shall terminate 90 days after the date on which the [second] *third* report is transmitted by the [Committee] *Administrator* pursuant to subsection (f)(2).

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VETERANS' BENEFITS IMPROVEMENT AND HEALTH-CARE AUTHORIZATION ACT OF 1986

(Public Law 99-576, October 28, 1986)

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TITLE II—HEALTH CARE AND MEDICAL FACILITIES

* * * * * * *

Part D—Miscellaneous

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[SEC. 234. PROHIBITION AGAINST EXCESSING OF CERTAIN VETERANS' ADMINISTRATION PROPERTIES.

[(a) In General.—The Administrator of Veterans' Affairs may not take any action before January 1, 1988, in connection with declaring as excess to the needs of the Veterans' Administration, transferring to another Federal agency, or otherwise relinquishing any Veterans' Administration interest in or disposing of any portion of the real property described in subsection (b). Any such action taken before the date of the enactment of this Act shall be without effect. If on the date of the enactment of this Act, such property (or any portion thereof) is under the jurisdiction of an agency of the United States other than the Veterans' Administration, such property shall revert back to the jurisdiction of the Veterans' Administration.

[(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is certain land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), submitted by the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code.]

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G.V. MONTGOMERY,
MARCY KAPTUR,
J. ROY ROWLAND,
JERRY SOLOMON,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

ALAN CRANSTON,
DENNIS DECONCINI,
SPARK MATSUNAGA,
FRANK H. MURKOWSKI,
AL SIMPSON,
Managers on the Part of the Senate.

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